

## **UNHCR Observations on the Legislative Proposals in the Final Report “The Reception Act: A New Law for the Organized Reception of Asylum-seekers and Efficient Returns”**

### **I. Introduction**

1. The United Nations High Commissioner for Refugees (“UNHCR”) Representation for the Nordic and Baltic Countries (“RNB”) would like to thank the Government of Sweden for the invitation to provide observations on the legislative proposals in the final report, “The Reception Act: A New Law for the Organized Reception of Asylum Seekers and Efficient Returns” (“Mottagandelagen: En ny lag för ordnat asylmottagande och effektivt återvändande”, SOU 2024:68) – hereafter referred to as the “Proposal”.<sup>1</sup> This Proposal aims to replace the current “Act on Reception of Asylum Seekers and Others” (1994:137) by introducing a new Reception Act.<sup>2</sup>
2. UNHCR has a direct interest in law proposals in the field of asylum, as the agency entrusted by the UN General Assembly with the mandate to provide international protection to refugees and, together with Governments, seek permanent solutions to the problems of refugees.<sup>3</sup> Paragraph 8 of UNHCR’s Statute confers responsibility on UNHCR for supervising international conventions for the protection of refugees,<sup>4</sup> whereas the 1951 Convention relating to the Status of Refugees<sup>5</sup> and its 1967 Protocol relating to the Status of Refugees (hereafter collectively referred to as “1951 Convention”) oblige States to cooperate with UNHCR in the exercise of its mandate, in particular facilitating UNHCR’s duty of supervising the application of the provisions of the 1951 Convention and 1967 Protocol (Article 35 of the 1951 Convention and Article II of the 1967 Protocol).<sup>6</sup>
3. 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. Such guidelines are included in the UNHCR Handbook on Procedures and Criteria for Determining Refugee Status and

---

<sup>1</sup> Swedish Government Official Reports, Final Report of the Inquiry on an Initial Orderly Reception, SOU 2024:68. Full report (in Swedish): <https://regeringen.se/contentassets/0a23ec569e9746c68930907cb329291d/mottagandelagen-sou-202468.pdf>.

<sup>2</sup> For detailed information on the proposed legislative text to the various acts, see pp. 39-130 of the Proposal.

<sup>3</sup> UN General Assembly, Statute of the Office of the United Nations High Commissioner for Refugees, 14 December 1950, A/RES/428(V) <https://www.refworld.org/docid/3ae6b3628.html> (“the Statute”).

<sup>4</sup> Ibid, para. 8(a). According to para. 8(a) of the Statute, UNHCR is competent to supervise international conventions for the protection of refugees. The wording is open and flexible and does not restrict the scope of applicability of the UNHCR’s supervisory function to one or other specific international refugee convention. UNHCR is therefore competent qua its Statute to supervise all conventions relevant to refugee protection, UNHCR’s supervisory responsibility, pp. 7-8, October 2002 <http://www.refworld.org/docid/4fe405ef2.html>.

<sup>5</sup> UN General Assembly, Convention Relating to the Status of Refugees, 28 July 1951, United Nations Treaty Series, No. 2545, vol. 189 <http://www.unhcr.org/refworld/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”.

<sup>6</sup> UNHCR’s supervisory responsibility has also been reflected in European Union (“EU”) law, including by way of general reference to the 1951 Convention in Article 78 (1) of the Treaty on the Functioning of the EU.

subsequent Guidelines on International Protection (“UNHCR Handbook”).<sup>7</sup> UNHCR also fulfils its supervisory responsibility by providing comments on legislative and policy proposals impacting on the protection and durable solutions of its persons of concern.

4. UNHCR’s observations are structured as follows: Section II sets out the scope of the Proposal. Section III sets out observations to clarify UNHCR’s position and relevant jurisprudence concerning adequate reception standards with respect to select aspects of the Proposal. Section IV sets out the conclusions and recommendations. The scope of UNHCR observations only extends to refugees and beneficiaries of subsidiary protection.

## II. Scope of the Proposal

5. The stated aim of the Government with the present reform of the Swedish reception system is to ensure more orderly and efficient reception of asylum-seekers in Sweden with faster asylum processes. According to the Government, this would lead to a shorter period of uncertainty for the individual asylum-seeker and allow the authorities involved to plan better. According to the Government, the reform also contributes to the reduction of segregation and more efficient return of rejected asylum-seekers.<sup>8</sup>
6. UNHCR recalls the establishment of the Government Inquiry “An orderly reception of asylum seekers” in September 2021, as part of the reform of the Swedish reception system, and that it has been extended several times since then with supplementary directives.<sup>9</sup> In November 2022, the Inquiry submitted the interim report “A new scheme for asylum seekers' accommodation (SOU 2022:64)”.<sup>10</sup> UNHCR refers to its observations submitted in June 2023, which remain valid.<sup>11</sup> Further to this, the Government presented a law proposal on 7 November 2024, according to which all asylum-seekers should live in accommodation provided by the Swedish Migration Agency (SMA), instead of arranging accommodation on their own.<sup>12</sup> As a general rule, asylum-seekers will only be entitled to financial assistance during the asylum period if they live in the asylum accommodation (hereafter the term “reception centers” will be used) that they have been assigned.
7. In October 2024, the Inquiry presented its final report, including recommendations on additional measures and sanctions to ensure compliance with the proposed new reception

---

<sup>7</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, April 2019, HCR/1P/4/ENG/REV. 4 <https://www.refworld.org/docid/5cb474b27.html>.

<sup>8</sup> A new law for the orderly reception of asylum and effective return, 15 October 2024, <https://www.regeringen.se/pressmeddelanden/2024/10/en-ny-lag-for-ordnat-asylmottagande-och-effektivt-atervandande/>.

<sup>9</sup> Government of Sweden, Supplementary directive to the Inquiry on an orderly initial reception of asylum seekers (Ju 2021:12) 22 June 2023, <https://www.regeringen.se/rattsliga-dokument/kommittedirektiv/2023/06/dir.-202393>.

<sup>10</sup> Government of Sweden, “A New System for Accommodation of Asylum Seekers” (SOU 2022:64), Interim report, November 2022 <https://www.regeringen.se/contentassets/f171efbf1b4b4210b40bf935d1e2168f/en-ny-ordning-for-asylosokandes-boende-sou-2022-64.pdf>.

<sup>11</sup> UNHCR, Observations on the legislative proposals in the interim report "A new order for the accommodation of asylum-seekers", 30 June 2023, <https://www.refworld.org/legal/natlegcomments/unhcr/2023/en/124275>.

<sup>12</sup> Government of Sweden, A new order for the accommodation of asylum-seekers (En ny ordning för asylsökandes boende), Law proposal, 2024/25:49, November 2024, <https://www.regeringen.se/rattsliga-dokument/proposition/2024/11/20242549/>.

system. As a result, the proposed new legal framework on reception will be mostly limited to the minimum levels set out in EU law,<sup>13</sup> with many of the favorable and good practice provisions removed. The Proposal outlines a new Reception Act as well as amendments to other regulations governing the reception of asylum-seekers.

8. The design and location of the reception centers is not within the scope of the Inquiry. The Inquiry nevertheless underlines the importance of considering the conditions for children, families and vulnerable applicants.<sup>14</sup> UNHCR welcomes the emphasis on the importance of taking into account individual needs and on creating safe and inclusive environments for all asylum-seekers, particularly vulnerable groups. UNHCR also appreciates that the report recognizes that tailored solutions, such as, separate living spaces and specialized accommodations are crucial to effectively meet their needs.<sup>15</sup> UNHCR recommends that both the design of reception centers and staff training place the well-being of the residents at the center, to ensure that facilities and services are adequately equipped to provide appropriate support.

### III. Observations

#### a. Restrictions on freedom of movement and the right to privacy

9. According to the Proposal, the new Reception Act will apply to individuals who have applied for asylum, as well as those who have sought or been granted temporary protection.<sup>16</sup> The Act will contain a separate chapter for beneficiaries of temporary protection. Beneficiaries of temporary protection will not be obliged to live in reception centers. Provisions for unaccompanied children will remain unchanged and the reception and accommodation for such children will continue to be the responsibility of the assigned municipality.<sup>17</sup>
10. According to the proposed Reception Act, paragraph 3:7, asylum-seekers above the age of 16 years should participate in regular attendance checks to monitor that they continue to stay at the designated reception center.<sup>18</sup> Further, paragraph 3:8 will set out that asylum-seekers will be required to stay within the county where the reception center is located. According to paragraphs 3:9-3:11, SMA may decide on further residency and reporting

---

<sup>13</sup> See, e.g. Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast), <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32013L0033>; Directive (EU) 2024/1346 of the European Parliament and of the Council of 20 June 2024 laying down standards for the reception of applicants for international protection, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32024L1346> (“recast EU RCD”). See also further below.

<sup>14</sup> Proposal, p. 695. For limited groups requiring certain additional support, municipalities will be responsible for providing assistance, either at the reception centers or specialized housing under the Social Services Act.

<sup>15</sup> Proposal, p. 697.

<sup>16</sup> Proposal, pp. 182-194.

<sup>17</sup> Proposal, pp. 182-194; 376-381.

<sup>18</sup> Proposal, pp. 234-242. Asylum-seekers must register regularly with an electronic card at their designated accommodation at both scheduled and ad hoc checks. For adults, the attendance checks will be three times per week on varying days and at different times. Children under 16 years old and unaccompanied children are exempt, while special consideration will be given to children above 16 years to ensure their participation in education and other activities.

obligations in particular individual cases to prevent absconding and disturbance of public order. Such obligations will also apply to children above the age of 16 years. Violations of these further obligations may result in detention. The Proposal notes that asylum-seekers will have freedom of movement within a relatively large designated area (the assigned county) and may be granted temporary permissions for justified absences from this area.<sup>19</sup>

11. According to proposed paragraph 9:5, the daily allowance may be reduced for asylum-seekers who do not comply with the obligation to stay within the designated county, or fail to comply with individually determined reporting obligations.<sup>20</sup> Non-compliance with the residence obligations may also, if there is a risk of absconding, constitute grounds for detention.<sup>21</sup> Non-compliance due to circumstances beyond the asylum-seeker's control would not result in penalties.<sup>22</sup>
12. In international refugee law, Article 26 of the 1951 Convention provides for the freedom of movement and choice of residence for refugees lawfully in the territory of the host State. Asylum-seekers are considered lawfully in the territory for the purposes of benefiting from this provision.<sup>23</sup> The jurisprudence of the European Court of Human Rights (“ECtHR”) further notes that any measures limiting asylum-seekers' freedom of movement within the host State's territory must be necessary, proportionate, and aimed at achieving a legitimate objective.<sup>24</sup> Respecting the right to seek asylum thus entails instituting open and humane reception arrangements for asylum-seekers, including safe, dignified and human rights-compatible treatment.
13. The UNHCR Executive Committee has further underscored the importance of creating a “safe and dignified environment for asylum-seekers” and has emphasized that “while there is scope for flexibility in the choice of reception arrangements, it is important that these

---

<sup>19</sup> SMA may grant permissions for absences based on "special reasons," such as urgent family circumstances (e.g., attending a funeral, family gathering, or wedding) or necessary medical treatment, including temporary hospitalization. Prior violations of attendance-checks or reporting obligations may result in requests being denied.

<sup>20</sup> A reduction in the daily allowance due to non-compliance with the reporting obligation would apply for two weeks. Should the asylum-seeker be present outside the county on multiple consecutive days, each day would result in an additional one-week reduction. Should the asylum-seeker fail to report on multiple occasions, further reductions could be imposed, with two weeks for each instance of non-compliance.

<sup>21</sup> Proposal, p. 266.

<sup>22</sup> Proposal, p. 261; 265; 268; 282; 329.

<sup>23</sup> Article 26 refers to lawful presence in the country of asylum and does not require lawful stay or residence. Lawful presence implies admission in accordance with the applicable migration law for a temporary purpose, e.g. as an asylum-seeker for the purpose of determination of the individual's status. See further, Andreas Zimmermann (ed.), *The 1951 Convention Relating to the Status of Refugees and Its 1967 Protocol: A Commentary*, Oxford University Press, First published 2011, ISBN: 978-0-19-954251-2, p. 1158

<sup>24</sup> Under the 1951 Convention and Article 2(1) of Protocol No. 4 to the ECHR, asylum-seekers are entitled to freedom of movement, with restrictions allowed only when strictly necessary. See e.g. *Nada v. Switzerland*, ECtHR [GC], App. No. 10593/08, Judgment of 12 September 2012, para. 183 (restrictions on freedom of movement must strike a fair balance between the individual's rights and the public interest and be proportionate to the aim pursued).

<sup>24</sup> Proposal, p. 283; *Amuur v. France*, ECtHR, App. No. 19776/92, Judgment of 25 June 1996, para 43 (stating that restrictions on liberty must be necessary and appropriate, particularly in the context of asylum-seekers); *Saadi v. United Kingdom*, ECtHR, App. No. 13229/03, Judgment of 29 January 2008, para. 74 (holding that detention or restrictions must not be arbitrary and must pursue a specific and lawful objective); *Rusu v. Austria*, ECtHR, App. No. 34082/02, Judgment of 2 October 2008, paras. 54 and 58-60 (emphasizing the requirement of proportionality and lawfulness in any deprivation of liberty).

measures respect human dignity and applicable international human rights law and standards.”<sup>25</sup> Adequate reception conditions are an important part of a functional and sustainable asylum system and a precondition to an applicant’s ability to present his or her application for international protection.<sup>26</sup>

14. The recently adopted recast EU Reception Conditions Directive (“recast RCD”) permits Member States to restrict the freedom of movement to designated areas to facilitate the swift and efficient processing of applications or to manage the geographic distribution of applicants, considering the capacity of the areas concerned.<sup>27</sup> Restricted areas should be “sufficiently large” to prevent undue interference with private life and ensure that asylum-seekers maintain access to essential services, employment, and social networks. Articles 7 and 8 permit Member States to reduce or withdraw the daily allowance with respect to applicants who abandon the designated area without permission. Also, under the EU APR, repeated failure to fulfill individual reporting obligations could result in the asylum application being considered withdrawn.<sup>28</sup>
15. In UNHCR’s view, staying in collective accommodation should generally only be the case for a limited period of time, allowing applicants to move to smaller scale housing as soon as possible.<sup>29</sup> Adequate reception standards need to be guaranteed throughout the duration of the asylum procedure. For some individuals, staying in the reception centers would be a necessary interim solution and even a preferred option due to their particular circumstances. However, this would not be the case for everyone, especially in the long run.
16. UNHCR notes that the Proposal introduces a combination of different types of restrictions and reporting requirements, such as geographical movement restrictions, frequent reporting obligations and punitive measures for non-compliance. UNHCR is of the opinion that while each of the proposed measures would be permissible according to the recast RCD, applied cumulatively they may create undue pressure on asylum-seekers. Member States should avoid any undue hardship, especially for applicants with specific needs, when various measures are combined. Any combination of measures must be necessary and proportionate.<sup>30</sup> UNHCR further notes that the possibility to make exceptions is very limited and recommends broadening these criteria.

---

<sup>25</sup> UNHCR, Conclusion on reception of asylum-seekers in the context of individual asylum systems, 8 October 2002, No. 93 (LIII) – 2002, <http://www.refworld.org/docid/3dafdd344.html>.

<sup>26</sup> UNHCR, Annotated Comments to Directive 2013/33/EU of the European Parliament and Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast), April 2015 (“UNHCR, Annotated Comments on the recast EU RCD, 2015”) p. 41.

<sup>27</sup> See above, fn 13.

<sup>28</sup> Proposal, pp. 199; 216-217; 259.

<sup>29</sup> UNHCR, Observations on the legislative proposals in the interim report “A new order for the accommodation of asylum-seekers”, 30 June 2023, <https://www.refworld.org/legal/natlegcomments/unhcr/2023/en/124275>.

<sup>30</sup> UNHCR, Comments on the Proposal for a Directive of the European Parliament and of the Council laying down standards for the reception of applicants for international protection (recast) – COM (2016) 465, August 2017, <https://www.refworld.org/legal/intlegcomments/unhcr/2017/en/100418> (“UNHCR, Comments on the recast EU RCD, 2017”), p. 14.



17. Adequate reception conditions are a precondition to an applicant’s ability to fully and effectively present their application for international protection.<sup>31</sup> The proposed measures, however, may hinder the asylum-seekers’ ability to effectively present their claims, including by limiting access to legal advice, gathering evidence, and reducing their capacity to focus on presenting relevant information for their application due to the lack of respect for their freedom of movement and privacy.<sup>32</sup> Asylum-seekers often prefer to meet their legal counsel in person to ensure privacy and confidentiality. If residing in remote areas with limited access to qualified lawyers, they may face challenges in securing adequate legal assistance. In such cases, they may want to request the appointment of a public lawyer from another county or opt to engage private legal counsel.
18. For individuals with specific needs, these challenges can be particularly acute. Vulnerable asylum-seekers, in particular, often benefit from the support of friends and family, who may live in another county. This proximity to their support network can strengthen their emotional and physical well-being, enabling them to present their case more effectively. Notably, Article 9.4 of the RCD requires that obligations imposed on asylum-seekers, such as residence or reporting obligations, be proportionate and tailored to individual circumstances, including specific reception needs.<sup>33</sup>
19. The recast RCD foresees not only “minimum standards” but aims to ensure improved reception conditions. The RCD encourages Member States to interpret the provisions in the Directive in a positive and generous spirit in line with international and EU law.<sup>34</sup> UNHCR therefore recommends that Sweden refrain from introducing a combination of restrictive measures that are applied concurrently and only meet the minimum requirements in the RCD, without due and comprehensive consideration of individual circumstances, including in cases of specific reception needs.

## **b. Implicit withdrawal or abandonment of the asylum application**

20. In the parallel law proposal concerning the accommodation of asylum-seekers (2024/25:49<sup>35</sup>), it is proposed that an application may be considered withdrawn for asylum-seekers who do not reside in designated asylum accommodation and fail to keep SMA informed of their residential address. The present Proposal outlines that under the new EU Asylum Procedures Regulation (“EU APR”),<sup>36</sup> asylum applications deemed implicitly withdrawn will no longer be examined, unless the conditions for a new

---

<sup>31</sup> UNHCR, Annotated Comments on the recast EU RCD, 2015, p. 41.

<sup>32</sup> See, for instance, UNHCR, Annotated Comments on the recast EU RCD, 2015, p. 41; UNHCR, Comments on the recast EU RCD 2017, p. 5.

<sup>33</sup> UNHCR, Guidelines on the applicable criteria and standards relating to the detention of asylum seekers and alternatives to detention, 2012, <https://www.unhcr.org/media/unhcr-detention-guidelines>, pp. 21-24.

<sup>34</sup> The EU RCD refers to the Charter of Fundamental Rights of the European Union, ECHR, as well as obligations under instruments of international law, notably the 1951 Convention, the 1989 United Nations Convention on the Rights of the Child (CRC), ICESCR and ICCPR.

<sup>35</sup> Government Bill 2024/25:49, En ny ordning för asylsökandes boende (A New System for Asylum-Seekers’ Accommodation) [Proposition \(Prop. 2024/25:49\)](#).

<sup>36</sup> European Union: Council of the European Union, European Union: European Parliament, Regulation (EU) 2024/1348 of the European Parliament and of the Council of 14 May 2024 establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU "Asylum Procedure Regulation", 32024R1348, 14 May 2024, <https://www.refworld.org/legal/reglegislation/council/2024/en/148004>.

examination are met. In such cases, individuals whose application is considered withdrawn, will instead fall under the provisions of the Reception Act applicable to persons subject to a removal decision. This may also imply detention of such individuals, if certain obligations are not fulfilled.<sup>37</sup>

21. UNHCR acknowledges that the determining authority may, in specific cases, decide to discontinue the examination of asylum applications, for example, when an applicant has been provided with effective opportunities but has failed to appear to present their claim without valid reasons. However, non-compliance with procedural obligations, such as registration of the correct address, attendance at asylum interviews or reporting, should not automatically result in an application being deemed abandoned or withdrawn without a thorough assessment of individual circumstances and reasons for non-compliance. Failure to register a correct address or comply with reporting obligations may stem from miscommunication, procedural errors, or logistical challenges, and not the lack of international protection needs.<sup>38</sup>
22. UNHCR further emphasizes that an asylum application should only be rejected following a full examination of all relevant facts and circumstances, where the determining authority has established that the applicant is not a refugee and does not qualify for subsidiary protection. UNHCR is concerned that rejection of an application as implicitly withdrawn, particularly due to procedural non-compliance, risks introducing punitive measures that may lead to incorrect decisions and deny protection to individuals with international protection needs, which may in turn lead to serious violation of their rights, including risk of *refoulement*.
23. UNHCR underscores that applicants whose claims are deemed implicitly withdrawn must not be removed from the territory of the host State in violation of the principle of non-refoulement. Safeguards should ensure that applicants can reopen first instance or appeal consideration of their cases, where procedural non-compliance was not intended or does not equate to a genuine withdrawal.

### **c. Procedural safeguards**

24. The Proposal foresees that movement restrictions may be imposed without individualized administrative decisions.<sup>39</sup> While this approach complies with the minimum standards of the recast RCD, UNHCR recommends that such restrictions be formalized through individualized administrative decisions that will be able to take individual circumstances of each asylum-seeker into account. This would ensure that the criteria for imposing restrictions are rigorously applied and that applicants are able to exercise their right to an effective remedy through the courts. Procedural safeguards, including the ability to challenge restrictions, are crucial for upholding fairness and transparency in the asylum process.

---

<sup>37</sup> Proposal, p. 266.

<sup>38</sup> UNHCR, Comments on the European Commission's Proposal for an Asylum Procedures Regulation, <https://www.refworld.org/docid/5cb597a27.html> pp. 32-33.

<sup>39</sup> Proposal, p. 249.

25. Individualized decisions are particularly critical in cases where permission to leave a designated area is denied or daily allowances are reduced. It is important to note that these decisions remain appealable under Article 29 of the recast RCD.<sup>40</sup> UNHCR encourages the Swedish Government to expand this principle to encompass all movement restrictions, ensuring consistency and compliance with international legal standards. Moreover, effective monitoring mechanisms are essential to ensure that imposed movement restrictions adhere to the criteria set out in the recast RCD.

#### **d. Family Unity**

26. UNHCR welcomes proposed paragraph 8:2, according to which, SMA should ensure that families are kept together in line with the principle of family unity as far as possible when allocating accommodation, unless the family members object to it. UNHCR further appreciates the reference to the recast RCD Article 26(5), which stipulates that children should be accommodated with their parents, minor unmarried siblings, or an adult responsible for them, if it is in their best interests.<sup>41</sup>

27. UNHCR recommends a flexible and inclusive definition of family, which takes into account economic, social and emotional dependency between family members, and may include adult siblings and dependent parents.<sup>42</sup> Facilitating accommodation for dependent close relatives, as outlined in recast RCD Recital 35 and Article 4 would support family cohesion and encourage greater compliance. It may also lead to enhanced compliance with restrictions on freedom of movement, when close family members are allowed to stay together in one place.<sup>43</sup>

28. In addition, UNHCR recommends that families with children be exempt from mandatory residence in reception centers as a condition for receiving benefits. Such exemptions align with the principle of the best interests of the child enshrined in Article 3 of the UN Convention on the Rights of the Child (CRC). By allowing families alternative accommodation options, this approach would promote family unity and reduce stressors associated with collective living environments.

#### **e. Considerations for children**

29. The Proposal argues that designated reception centers are generally more advantageous for children, as they provide better conditions for safeguarding child welfare, monitoring risks, ensuring school enrollment, and facilitating access to essential services.<sup>44</sup> It also acknowledges that the cumulative impact of the measures could have negative effects on children and highlights the need to prioritize the best interests of the child in decision-making.<sup>45</sup> UNHCR underlines in this respect the importance of making individual assessments of the best interests of the child, as although reception centers may offer some

---

<sup>40</sup> Proposal, p. 281.

<sup>41</sup> Proposal, p. 146.

<sup>42</sup> UNHCR, RSD Procedural Standards – Processing Claims Based on the Right to Family Unity, 2016, <http://www.refworld.org/docid/577e17944.html>, para. 5.2.3.

<sup>43</sup> UNHCR, Comments on the recast EU RCD, 2017, p. 8.

<sup>44</sup> Proposal, pp. 270-272.

<sup>45</sup> Proposal, p. 283.



advantages, they are not inherently suitable for every child. Decisions must reflect the unique circumstances of each child, in line with international law, including the CRC.

30. UNHCR welcomes the exemption of children under 16 years of age from attendance checks and reporting obligations.<sup>46</sup> UNHCR would encourage the Government to extend the exemption to all children. The principle of the best interests of the child must guide decisions affecting all children regardless of age, including older children.

#### **g. Access to the Labour Market**

38. As set out in proposed paragraph 3:13, the right to work will be restricted and only available for asylum-seekers who have been in Sweden for at least six months and have not yet received a decision in first instance, in order to align Swedish law with EU minimum standards.<sup>47</sup> This aligns with the maximum waiting period set by EU standards, and marks a departure from Sweden's previous, more generous practice of granting earlier access to the labor market that enabled early inclusion and integration prospects.
39. The recast RCD reduces the maximum waiting period for labour market access for asylum-seekers from nine to six months and supports Member States to provide earlier access. UNHCR therefore regrets that Sweden now introduces a waiting period in the law corresponding only to a minimum standard under the recast RCD. UNHCR encourages Member States to grant asylum-seekers early and effective access to the labour market. Early access can be beneficial to both the State and the asylum-seeker,<sup>48</sup> not only fostering early inclusion and self-reliance among asylum-seekers but also significantly enhancing long-term integration outcomes, enabling them to contribute to host communities at an earlier stage.<sup>49</sup> Furthermore, UNHCR specifically advocates for expedited labour market access for applicants with likely well-founded claims.<sup>50</sup>
40. UNHCR is concerned that the Proposal links access to employment with residence at a designated reception center. UNHCR recommends aligning the Proposal with the Government Proposal 2024/25:49 (based on the previous interim report SOU 2022:64, see above) and suggests that residence at a reception centre should not be a precondition for the asylum-seekers' ability to exercise their right to work.<sup>51</sup> Furthermore, geographical restrictions to stay within a certain county may create additional obstacles for applicants to find work due to transportation challenges, distance to potential places of employment, limited local employment opportunities, and the socio-economic profiles of applicants, particularly if the assigned housing is located far from job opportunities or if reassignment

---

<sup>46</sup> Proposal, pp. 270-272.

<sup>47</sup> Proposal, p. 36 .

<sup>48</sup> UNHCR, Global Consultations on International Protection/Third Track: Reception of Asylum-Seekers, Including Standards of Treatment, in the Context of Individual Asylum Systems, 4 September 2001, EC/GC/01/17, <http://www.refworld.org/docid/3bfa81864.html>.

<sup>49</sup> UNHCR (2011), Comments on the European Commission's amended recast proposal for a Directive of the European Parliament and the Council laying down standards for the reception of asylum-seekers – COM (2011) 320 final <https://www.unhcr.org/media/unhcr-comments-european-commissions-amended-recast-proposal-directive-european-parliament-0> pp. 13-14; UNHCR, Annotated Comments on the recast EU RCD, 2015.

<sup>50</sup> UNHCR, Comments on the recast EU RCD, 2017, p. 14.

<sup>51</sup> Proposal, p. 411.

to a particular reception centre disrupts ongoing employment. These restrictions appear to be counter-effective to the stated aim of reducing segregation between asylum-seekers and the local population.

#### **g) Adjustments to Daily Allowance Rates and Ensuring Adequate Living Standards**

41. UNHCR welcomes the clarification in the Proposal that basic needs, such as food, clothing, and hygiene products, must be ensured even if daily allowances are reduced or withdrawn.<sup>52</sup> UNHCR underscores that any sanctions, including when basic needs are met, must be proportionate, carefully considered, justified, and implemented in a manner that upholds the dignity of affected individuals. With respect to the proposed possibility to reduce or withdraw daily allowances for breaches of reporting obligations or geographical movement restrictions,<sup>53</sup> UNHCR is concerned that the duration of these reductions may be disproportionately long, leading to undue hardship for the affected individuals.
42. The Court of Justice of the European Union (“CJEU”) has developed jurisprudence which clarifies that Member States cannot impose sanctions, even for serious breaches of accommodation center rules or violent behavior, that involve the withdrawal - albeit temporarily - of material reception conditions such as housing, food, or clothing, if doing so would deprive the applicant of the ability to meet their most basic needs. The CJEU has also established that any lesser sanctions *must still* observe the principles of proportionality and respect for human dignity.<sup>54</sup>
43. UNHCR welcomes the Proposal’s plan to update the daily allowance rates. The proposed adjustment links allowances to a percentage of the national standard for social assistance, regulated by the Social Services Regulation and indexed to the Consumer Price Index (CPI).<sup>55</sup> While this alignment with national standards is a positive step, UNHCR notes that the proposed percentage would result in minimal increases and fail to reflect actual living costs.<sup>56</sup> UNHCR urges the Government to regulate the rate so that it ensures coverage of the basic needs for asylum-seekers. Good practice suggests that adequate reception conditions reduce the likelihood of absconding and onward movement, as well as the risk of abuse and exploitation. Moreover, if asylum procedures are swift and efficient, with the requisite safeguards in place, reasonable levels of material assistance should not represent an excessive burden on the asylum state, nor an incentive for misuse of the system.<sup>57</sup>

#### **IV. Conclusions and recommendations**

44. In conclusion, UNHCR sees a risk that the measures included in the Proposal cumulatively are likely have a negative effect on the asylum-seekers’ sense of freedom, dignity and well-being, as well as fulfillment of their human rights. UNHCR is concerned that the combination of restrictions on freedom of movement, frequent reporting requirements and

---

<sup>52</sup> Proposal, pp. 355-356.

<sup>53</sup> Proposal, pp. 261-266.

<sup>54</sup> European Union, Court of Justice, *Haqbin C-233/18*.

<sup>55</sup> Proposal, pp. 660-682.

<sup>56</sup> Proposal, p. 83; 661.

<sup>57</sup> UNHCR, Annotated Comments on the recast EU RCD, 2015, p. 43.

punitive measures for non-compliance could adversely impact the ability of applicants to present their asylum claim effectively. While reception measures should promote integration and safeguard the dignity and well-being of all asylum-seekers, mandatory stay in collective accommodation risks exacerbating isolation and marginalization, particularly for families and vulnerable individuals, for whom staying in such accommodation would not be a personal choice.<sup>58</sup>

45. UNHCR recommends that the Government of Sweden:

- a. Refrain from introducing multiple restrictive reception and control measures without sufficient regard for individual circumstances of the asylum-seekers;
- b. Replace blanket movement restrictions with individualized decisions based on necessity and proportionality, with effective access to judicial review;
- c. Implement the exemptions from the condition of living in asylum accommodation in order to receive benefits in a flexible manner, taking into consideration the individual circumstances and needs of the asylum-seekers;
- d. Avoid that non-compliance with procedural obligations, such as communication of correct address or reporting, automatically results in an application being deemed abandoned or implicitly withdrawn, without a thorough assessment of individual reasons and circumstances;
- e. Exempt families with children from mandatory residence in reception centers in order to receive benefits;
- f. Exempt all children staying at reception centers from attendance checks and reporting obligations;
- g. Provide tailored accommodation or implement suitable reception conditions for persons with specific reception needs, including separate or private living spaces and specialized facilities that address their individual needs and safeguard their well-being;
- h. Assess on an individual basis, whether to stay at an asylum accommodation is in the best interests of the child, taking into account the specific circumstances in each case;
- i. Ensure the daily allowance is sufficient to provide an adequate standard of living, and reflect the actual living costs for asylum-seekers and beneficiaries of temporary protection;
- j. Limit the withdrawal of material assistance to highly exceptional, thoroughly justified and documented cases, such as when an applicant abandons their place of residence for a significant period of time and without valid reason, and ensure that asylum-seekers are informed about this procedure and possibility to appeal such decision.

45. UNHCR stands ready to discuss these recommendations with the Swedish authorities.

**UNHCR Representation for the Nordic and Baltic Countries**  
**15 January 2024**

---

<sup>58</sup> See, UNHCR, Observations on the legislative proposals in the interim report "A new order for the accommodation of asylum-seekers".