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Expulsion of refugees involved in committing serious crimes in host countries

Introduction

1. The commission of serious crimes by individual refugees in host countries can create significant challenges. Article 2 of the 1951 Convention relating to the Status of Refugees (1951 Convention) expressly requires refugees to respect the laws and regulations of their host country. Refugees who commit criminal acts in the territory of the host country are subject to investigation, prosecution and trial before a competent court in accordance with the law and due process principles. Where an individual poses a threat to national security or public order, host States may adopt measures to address those threats, provided these actions comply with international refugee law and other applicable international obligations, including under international human rights law.

2. International refugee law provides a framework that enables States to address legitimate national security and public order concerns while upholding their international protection responsibilities. The 1951 Convention contains specific provisions governing the expulsion of refugees and, in clearly defined circumstances, allows for exceptions to the principle of non-refoulement under international refugee law.¹

3. In line with UNHCR's mandate for the international protection of refugees and its supervisory responsibility for the application of refugee law instruments, the present guidance provides updated, globally relevant advice and considerations on the application of the 1951 Convention in relation to the expulsion of refugees who have committed serious criminal offences within the territory of a host State.² The guidance describes applicable international obligations in relation to expulsion procedures and clarifies the requirements for the lawful implementation of an expulsion decision, including with respect to the designation of the country to which the person may be expelled (country of destination).³

¹ The relevant provisions are contained in Articles 32 and 33 of the Convention relating to the Status of Refugees (1951 Convention).

² For the purposes of this guidance, the term “expulsion” refers to a formal decision requiring a refugee to leave the host State's territory. It includes administrative or judicial expulsion orders, as well as measures such as withdrawing or refusing to issue a residence permit when these have the legal effect of obliging the person to depart. “Deportation” refers to the enforcement of an expulsion order when the individual does not leave voluntarily. Neither term, as used in this guidance, covers the transfer of refugees or asylum-seekers, respectively, to a first country of asylum or a safe third country based on international agreements or arrangements (see UNHCR, [International Agreements for the Transfer of Refugees and Asylum-seekers](#), 7 August 2025); the removal of asylum-seekers who have been found not to be in need of international protection (see UNHCR, [The Need for Effective Returns Systems and the Potential Role of Return Hubs](#), March 2025); or the surrender of a refugee in the context of extradition proceedings concerning refugees (see UNHCR, [Guidance Note on Extradition and International Refugee Protection](#), April 2008).

³ This guidance does not address circumstances in which a refugee's criminal conduct in the host country may give rise to the revocation of their refugee status or to situations that may lead to the cancellation of refugee status. The term “revocation”, as used by UNHCR, refers to the termination of refugee status where a refugee engages in conduct falling within the exclusion grounds in Article 1F(a) or 1F(c) of the 1951 Convention (i.e. crimes against peace, crimes against humanity, war crimes; or acts contrary to the purposes and principle of the United Nations). Unlike Article 1F(b), which provides for exclusion on the basis of serious non-political crimes committed outside the country of refuge prior to admission to that country, Article 1F(a) and (c) are not subject to geographic and temporal restrictions and may therefore apply to acts committed in any country (including the country of asylum) and at any

Legal framework for the expulsion of refugees involved in the commission of serious crimes in the host State

4. Refugees who commit criminal acts in the territory of the host State are subject, in accordance with domestic law and applicable safeguards, to investigation, prosecution and trial before a competent court and, if found guilty, punishment proportionate to the offence. In addition, host States may take appropriate and lawful measures to address any national security or public order threats posed by a refugee, including in specific circumstances through expulsion.

5. Expulsion on grounds related to national security and public order is generally effected through an administrative decision taken by the competent authority, and a criminal conviction is not always a prerequisite under domestic law.⁴ Where provided for in domestic law, expulsion may also be ordered by a court in the context of criminal proceedings, either as part of the sentence or as an additional measure available in certain circumstances.

Criteria for expulsion decisions concerning refugees involved in serious crimes

6. Under international refugee law, the circumstances in which a State may expel a refugee are determined by Article 32 of the 1951 Convention, which specifies the permissible grounds for expulsion, sets out key procedural safeguards, and requires that the person be allowed a reasonable period of time for voluntary departure. Article 32 is applicable to refugees,⁵ that is, persons who have had their refugee status recognized in accordance with the eligibility criteria set out in Article 1 of the 1951 Convention,⁶ who are “lawfully in the territory”. The requirement of lawful presence will generally be met if the person is in the country that has recognized their refugee status.⁷

time (including after recognition). “Cancellation”, in UNHCR’s terminology, refers to the invalidation of refugee status that was incorrectly granted in the first place, if it is subsequently determined that the person did not meet the “inclusion” criteria of Article 1A(2) or that an exclusion clause should have been applied at the time of the initial recognition. See 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, paras 13 -17. See also, UNHCR, [Note on the Cancellation of Refugee Status](#), 22 November 2004, para. 1.

⁴ See, e.g., International Law Commission, [Draft articles on the expulsion of aliens, with commentaries](#), 2014, Commentary to draft Article 2, at fn. 20: “In the domestic law of most States, expulsion is a legal act by the State, taking the form of an administrative act, since it is a decision of administrative authorities. It is a formal act that may be contested before the courts of the expelling State, since expulsion is a procedural process.”

⁵ In cases where the person who has committed a serious crime in the host country is an asylum-seeker, refugee status must be determined before the host State can assess whether expulsion would be permissible under Article 32 of the 1951 Convention. Until a final determination of refugee status has been made, it cannot be established whether the individual falls within the personal scope of the provision, nor can it be assessed whether expulsion would constitute a necessary and proportionate measure to safeguard the national security or public order of the host State.

⁶ Article 32 of the 1951 Convention also applies to refugees as defined in Article I(2) of the OAU [Convention Governing the Specific Aspects of Refugee Problems in Africa](#) (10 September 1969) and Conclusion III(3) of the [Cartagena Declaration on Refugees](#) (22 November 1984), when the host State is a Contracting State to the 1951 Convention or its 1967 Protocol. See, by analogy, 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, para. 8. Where the host State is considering the expulsion of a person granted temporary protection in lieu and/or anticipation of their refugee status determination, the same considerations would apply as for asylum-seekers (see above at fn. 5). For general guidance on temporary protection, see UNHCR, [Guidelines on Temporary Protection or Stay Arrangements](#), February 2014.

⁷ Refugees recognized by another State whose presence complies with the legal requirements of the host State would also be regarded as lawfully in the territory.

Grounds for expulsion of refugees under Article 32(1) of the 1951 Convention

7. Article 32(1) of the 1951 Convention prohibits the expulsion of a refugee who is lawfully in the country “save on grounds of national security and public order”. The drafters of the 1951 Convention intended the concepts of “national security” and “public order” in Article 32(1) to be interpreted restrictively, given the severe consequences of expulsion for the refugee concerned:⁸

- **National security** may be invoked only in cases of conduct of a serious nature that undermines, directly or indirectly, the government, integrity, independence or external peace of the host country.⁹ Similar considerations apply as in the context of the “danger to the security” exception to the principle of non-refoulement under Article 33(2) of the 1951 Convention.¹⁰
- **Public order** may constitute a valid ground for expulsion where a refugee has engaged in conduct that undermines the fundamental interests of society. Expulsion on this basis may be justified if the refugee has committed or has been convicted of criminal acts which, given their nature and seriousness, are considered to be violations of public order in the country concerned. This would include homicide, causing grievous bodily harm, arson, rape and other serious sexual offences, or trafficking in human beings or weapons.¹¹ However, the public order ground in Article 32(1) does not justify expulsion of a refugee on grounds such as indigence; illness; physical, mental or intellectual disability;¹² or non-compliance with immigration rules;¹³ nor would expulsion be justified where the refugee’s acts constitute the lawful exercise of protected rights.

8. Where expulsion is considered in respect of a refugee who has committed a serious crime in the host State, the nature and gravity of the criminal conduct are important elements, but they are not, in themselves, determinative. For an expulsion order concerning a refugee who is lawfully in the host State to be compatible with international refugee law, it must be established, considering all relevant circumstances, that the person’s continued presence is in fact prejudicial to national security or public order.

⁸ See UNHCR, *Note on Expulsion of Refugees*, EC/SCP/3, 24 August 1977, paras 4-5. Similarly, the Executive Committee of the High Commissioner’s Programme (ExCom), in *Conclusion No. 7 (XXVIII): Expulsion (1977)*, 12 October 1977, recognized that expulsion of a refugee under Article 32 of the 1951 Convention is “only permitted in exceptional circumstances” and recommended that “expulsion measures against a refugee should be taken only in very exceptional cases and after due consideration of all the circumstances”.

⁹ See, e.g., UNHCR, *Submission by the Office of the United Nations High Commissioner for Refugees in the case of 2021KuHap78282 before the Seoul Administrative Court*, 14 March 2022, para. 14(i). Based on the intentions of the drafters of the 1951 Convention and evolving State practice, crimes which may threaten national security include those directed against the security of the State, such as espionage, treason or sedition, as well as terrorist crimes which, due to their magnitude and impact, pose such a threat.

¹⁰ See paras 13 -14 below.

¹¹ The listing is not exhaustive, but it may serve to illustrate crimes which, given their nature and gravity, have been considered capable of posing a threat to public order. Less serious offences may also fall within the public order ground for expulsion under Article 32(1) of the 1951 Convention if committed habitually or repeatedly, including for example (the instigation of) rioting or the use or threat of violence causing fear to the public.

¹² See, e.g., UNHCR, *Submission by the Office of the United Nations High Commissioner for Refugees in the case of 2021KuHap78282 before the Seoul Administrative Court*, 14 March 2022, para. 14(ii).

¹³ See, e.g., the decision of the Court of Justice of the European Union (CJEU) in *M.A. v. Valstybes sienos apsaugos tarnyba*, Case C-72/22 PPU, 30 June 2022, concerning the interpretation of the concept of “public order” as a ground for detention of asylum-seekers under Directive 2013/33/EU (Receptions Conditions Directive), where the Court held (para. 90) that the illegal nature of an applicant’s presence cannot, in itself, be regarded as demonstrating the existence of a threat to “public order”, understood by the CJEU as entailing “[...] the existence – in addition to the disturbance of the social order which any infringement of the law involves – of a genuine, present and sufficiently serious threat affecting one of the fundamental interests of society” (para. 87).

9. In view of the strict substantive limitations and procedural requirements inherent in Article 32 of the 1951 Convention, any expulsion decision taken under Article 32(1) must be based on an objective and individualized assessment, supported by clear and credible reasons. This assessment must demonstrate that expulsion is necessary – namely, that other measures, such as prosecution or restrictions on liberty or freedom of movement in the host State, would not suffice to address the national security or public order interests at stake¹⁴ – and that it is proportionate in the particular case. This assessment requires weighing the seriousness of the legitimate interests pursued by the State against the impact of expulsion on the individual concerned.¹⁵

Expulsion of refugees outside the scope of Article 32 of the 1951 Convention

10. Refugees who are not lawfully in the territory of a State (e.g. those recognized by another country who overstay a visa or have entered in an irregular manner) do not fall within the scope of Article 32 of the 1951 Convention. An expulsion order may be issued for such refugees if their continued presence is contrary to the interests of the host State, provided that the decision on expulsion is made in a manner consistent with general human rights standards and the rule of law.

Procedural safeguards

11. Any decision to expel a refugee must be reached in accordance with due process of law and through a procedure offering adequate safeguards. Article 32(2) of the 1951 Convention, which spells out these requirements specifically with regard to expulsion of refugees who are lawfully in the territory of the host State, expressly provides for the right of a refugee to submit evidence to clear themselves, to appeal the decision and be represented for this purpose before the competent authority or before person(s) designated by the competent authority.¹⁶ These requirements are complemented by international human rights

¹⁴ See UNHCR, [Note on Expulsion of Refugees](#), EC/SCP/3, 24 August 1977, para. 4.

¹⁵ The requirement of a case-by-case assessment of necessity and proportionality, or equivalent controls such as individualized assessment and non-arbitrariness, in the context of expulsion is widely recognized under international and regional human rights instruments and reflected in the jurisprudence of regional and national courts. In Europe, for example, the European Court of Human Rights (ECtHR), in examining the impact of expulsion on a person's private and family life under Article 8 of the European Convention on Human Rights (ECHR), has identified a set of factors for assessing whether expulsion is necessary in a democratic society and proportionate to the legitimate aim pursued, including the nature and seriousness of the offence; the duration of the person's stay in and ties to the country; the time elapsed since the offence and the person's conduct during that period; the person's family situation; the best interests and well-being of children; and the difficulties for the spouse and/or children if expelled; and the duration of any entry ban. See, e.g., ECtHR, [Boultif v. Switzerland](#), Application No. 54273/00, 2 August 2001, para. 48; ECtHR, [Üner v. the Netherlands](#), Application No. 46410/99, 18 October 2006, paras 57–59. Comparable forms of review are found outside Europe in the practice of UN human rights treaty bodies and regional human rights institutions, which examine whether the expelling State has conducted an individualized assessment and ensured non-arbitrariness in expulsion decisions, including on national security grounds. See, e.g., [Madaffer v. Australia](#), Communication No. 1011/2001, para. 9.8 (assessing whether deportation would disproportionately affect family life); Inter-American Court of Human Rights (IACtHR), [Pacheco Tineo Family v. Bolivia](#), Series C No. 272, 25 November 2013, paras 128-136 (addressing the requisite assessment and special protection owed to children in proceedings leading to expulsion or deportation); IACtHR, [Advisory Opinion OC-21/14](#), 19 Aug. 2014, paras 222-229 (requiring an individualized best-interests assessment in immigration proceedings involving children and family life). Similar principles are reflected in African Commission on Human and People's Rights, [African Guiding Principles on the Human Rights of All Migrants, Refugees and Asylum Seekers](#), 20 October 2023, including with respect to the need for individualized procedures and assessment of the effects of removal for family unity and family life.

¹⁶ See also, Article 13 of the International Covenant on Civil and Political Rights (ICCPR), which outlines essentially the same procedural safeguards for the expulsion of any non-national who is lawfully in the territory. Some of the

guarantees which apply to the expulsion of any refugee, whether or not lawfully present, notably the right to challenge the lawfulness of the expulsion decision through an effective remedy.¹⁷

Expulsion of refugees and the principle of non-refoulement under international refugee law

12. An expulsion decision does not terminate a person's refugee status.¹⁸ Accordingly, for as long as the individual remains in the territory of the host State, they are, at a minimum, entitled to those rights and benefits under the 1951 Convention which are applicable to any refugee who is physically present, regardless of their legal status in the host State. Importantly, this includes protection under the principle of non-refoulement enshrined in Article 33(1) of the 1951 Convention, which prohibits the removal of a refugee to the country of origin or any other country where this would expose them to a risk of persecution or onward removal to such risk. In all cases, an individualized assessment of the risks that may await the refugee in the country of destination is required prior to the enforcement of the expulsion decision.

13. International refugee law permits exceptions to the principle of non-refoulement only in the circumstances specifically provided for in Article 33(2) of the 1951 Convention:

- When there are “reasonable grounds for regarding a refugee as a **danger to the security**” of the host country. In the same way as for expulsion under Article 32(1) on grounds of “national security”, this requires an individualized assessment as to whether the person poses a present or future threat to the security of the country.¹⁹ Generally, the “danger to the security of the country” exception may be invoked in cases of acts of a serious nature, which endanger directly or indirectly the constitution, territorial integrity, independence or external peace of the host country; this covers conduct such as attempts to overthrow the government of the host State through violence or otherwise illegal means, or activities against another State which may result in reprisals against the host State.²⁰
- Where a refugee, “having been convicted by a final judgment of a particularly serious crime, constitutes a **danger to the community**” of the host country. The application of this exception requires, first, a final conviction of a crime of a “particularly serious” nature. Whether the crime meets the necessary level of gravity does not depend solely on its categorization in the country in question but should rather be assessed in light

procedural guarantees under Article 32(2) of the 1951 Convention and Article 13 ICCPR may be limited when necessary for “compelling reasons of national security”.

¹⁷ Due process guarantees protecting all non-nationals, including those not lawfully in the territory of the host State, against arbitrary expulsion derive from the rights to an effective remedy and to a fair procedure, as reflected in Article 2(3) ICCPR and corresponding provisions in regional human rights treaties, where expulsion may interfere with protected rights (see, e.g., Article 13 ECHR, Articles 12 and 25 of the American Convention on Human Rights (ACHR); Article 7 of the African Charter on Human and Peoples' Rights (“Banjul Charter”, ACHPR); and Article 47 of the Charter of Fundamental Rights of the European Union (EU Charter)). Additional procedural safeguards arise from the prohibition of collective expulsion (see, e.g., Article 4 of Protocol No. 4 to the ECHR; Article 22(9) ACHR; Article 12(5) ACHPR; Article 26(2) of the Arab Charter of Human Rights; and Article 19(1) EU Charter).

¹⁸ Refugee status, once granted, may come to an end only through cessation (if one of the grounds set out in Article 1C of the 1951 Convention are met), revocation or cancellation. See UNHCR, [Note on the Cancellation of Refugee Status](#), 22 November 2004, para. 1, and above at fn. 3.

¹⁹ See para. 7 above.

²⁰ See, e.g., UNHCR, [Submission by the Office of the United Nations High Commissioner for Refugees in the case of 2021KuHap78282 before the Seoul Administrative Court](#), 14 March 2022, para. 31. See also, UNHCR, [Scope of the National Security Exception Under Article 33\(2\) of the 1951 Convention Relating to the Status of Refugees](#), 6 January 2006, pp. 4-5 (with references to the views of several commentators).

of international standards and a thorough examination of all circumstances related to the crime. Relevant factors include the nature of the act, the harm caused, the perpetrator's intent and circumstances, the actual penalty imposed, and whether the crime would generally be regarded as particularly serious across jurisdictions.²¹ Crimes which are widely considered "particularly serious" include, for example, murder, rape, armed robbery, arson, or trafficking in human beings.²² A final conviction for a particularly serious crime, however, operates as a threshold requirement. It does not, of itself, entail that the person falls within the "danger to the community" exception to the non-refoulement principle. The host State must demonstrate, on the basis of objective evidence, that the person concerned poses a current or future danger to its community.²³ The decisive inquiry is therefore whether, in light of the crime and conviction, the individual constitutes such danger.²⁴

14. Recourse to Article 33(2) of the 1951 Convention in the context of the expulsion of a refugee is consistent with international refugee law only if the person's removal is necessary and proportionate. This requires the host State to demonstrate that (1) there is a rational connection between the removal of the refugee and the elimination of the danger resulting from their presence for the security or community of the host State; (2) the person's expulsion to the country of origin, or another country where they would be at risk of persecution, is the last possible resort for eliminating the danger to the security or community of the host State;²⁵ and (3) the danger posed is sufficiently serious to justify reliance on Article 33(2), taking into account the degree of persecution feared.²⁶

15. In practice, States seeking to expel refugees who have committed serious crimes may encounter significant legal and practical obstacles in implementing expulsion decisions, especially as a result of broader human rights obligations. The Annex below outlines options for addressing these challenges in a manner consistent with international refugee and human rights law.

²¹ See, e.g., UNHCR, *Submission by the Office of the United Nations High Commissioner for Refugees in the case of 2021KuHap78282 before the Seoul Administrative Court*, 14 March 2022, paras 32-34.

²² This listing is not exhaustive. Other serious crimes may, depending on the circumstances surrounding their commission and in particular, the existence of factors aggravating the person's criminal conduct, be qualified as "particularly serious".

²³ See, e.g., UNHCR, *Submission by the Office of the United Nations High Commissioner for Refugees in the case of 2021KuHap78282 before the Seoul Administrative Court*, 14 March 2022, paras 35-36.

²⁴ Factors relevant to this determination include the nature of the criminal act; the motivation in committing it; past conduct, including any mitigating or aggravating factors, the possibility of rehabilitation and reintegration within society, and evidence of recidivism or likely recidivism. See UNHCR, *UNHCR intervention before the United States Court of Appeals for the Tenth Circuit in the case of N- A- M- v. Mukasey, Attorney General*, Case no. 08-9527 & 07-9580, 19 June 2008, p. 17. See also, e.g. CJEU, *Staatssecretaris van Justitie en Veiligheid v M.A.*, Case C-402/22, 6 June 2023, where the Court held (para. 52), that "... the existence of a danger to the community of the Member State in which the third-country national concerned is present cannot be regarded as established by the mere fact that he or she has been convicted by a final judgment of a particularly serious crime."

²⁵ See, e.g., CJEU, *H.T. v Land Baden-Württemberg*, C-373/13, 24 June 2015, where the Court held (para. 71) that the "refoulement of a refugee, while in principle authorised by [Article 21(2) of the Qualification Directive, which corresponds to the exceptions in Article 33(2) of the 1951 Convention], is only the last resort a Member State may use where no other measure is possible or is sufficient for dealing with the threat that that refugee poses to the security or to the public of that Member State."

²⁶ See, e.g., UNHCR, *Submission by the Office of the United Nations High Commissioner for Refugees in the case of 2021KuHap78282 before the Seoul Administrative Court*, 14 March 2022, para. 37; UNHCR, *Scope of the National Security Exception Under Article 33(2) of the 1951 Convention Relating to the Status of Refugees*, 6 January 2006, pp. 7-8.

ANNEX

Implementing the expulsion of refugees involved in committing serious crimes

16. Among the challenges that may arise in implementing expulsion decisions concerning refugees who have committed serious crimes are difficulties in identifying a country that is willing to receive and admit the individual, as well as ensuring that the person would not face a risk of persecution, other serious harm, or onward removal to a country where such risks exist. Beyond the obligation to allow voluntary departure in certain circumstances (see below) and to respect the principle of non-refoulement, the 1951 Convention is silent on the steps following the issuance of an expulsion order. States can consider lawful measures for the implementation of expulsion decisions, including those outlined below.

a. Voluntary departure

17. Once an expulsion order is issued, in accordance with the legal and procedural guarantees outlined above (paras 6 -14), the host State may offer the refugee the opportunity to depart voluntarily to a country willing to admit them. Where expulsion is based on Article 32(1) of the 1951 Convention in respect of a refugee lawfully in the territory, Article 32(3) requires the host State to allow the refugee a reasonable period within which to seek legal admission to another country. The determination of what is “reasonable” will depend on the circumstances and context of the particular case. Article 32(3) of the 1951 Convention further provides that during this period the host State may take internal measures as needed.²⁷

b. Enforcement of an expulsion decision

18. If the person is unable or unwilling to depart to a country of their choice willing to accept them after a period of time that is reasonable in the circumstances and context of the particular case, as required under Article 32(3) of the 1951 Convention, the host State may enforce the expulsion by deporting them to a country that agrees to receive them. The deportation process must be conducted with due respect for the person’s rights and dignity and include the opportunity for the individual to raise concerns with regard to the country of destination. The following sections set out key considerations in relation to destination States for the implementation of expulsion decisions.

Deportation to the country of origin

19. The expulsion of non-nationals usually involves returning them to their country of nationality. Where the strict requirements of Article 33(2) are met, deportation to the country of origin is permissible under international refugee law. The host State must nevertheless

²⁷ The expelling State may order the detention of the person concerned for the purposes of expulsion, provided that such detention is non-arbitrary and non-punitive, and limited to the period reasonably necessary for the expulsion to be carried out. In such cases, the person must have the right to regular review of their detention, ideally by a court of law, including with regard to its necessity and proportionality, as well as the possible availability of alternatives to detention. See, e.g., Article 9 ICCPR; Article 5 ECHR; Article 7 ACHR; Article 6 ACHPR. See also, UNHCR, *Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention*, 2012, para. 4, which set out guidance on international law standards for detention – on immigration-related grounds – of asylum-seekers and other persons seeking international protection but are “equally applicable to refugees and other persons found to be in need of international protection should they exceptionally be detained for immigration-related reasons.”

ensure that removal would not breach other applicable international obligations, in particular where the person would face a real risk of torture or other serious or irreparable harm, in line with broader human rights law obligations.²⁸

Deportation to a country where the refugee may be entitled to admission

20. In some cases, refugees may have a legal entitlement to admission in countries other than their country of origin. Where such entitlement exists, it may be in the interest of the expelling State to seek deportation to those countries, provided that applicable non-refoulement obligations are fully respected. This may be the case, for example, where the individual to be expelled has been recognized as a refugee by another country. Where the refugee's country of asylum has issued a Convention Travel Document in accordance with Article 28 of the 1951 Convention, its holder is generally entitled to be re-admitted at any time during the document's validity.²⁹

Deportation to a third country

21. The expulsion of a refugee may be implemented if a third country agrees to receive and admit the person. An agreement to this effect may be concluded in relation to a specific case or more generally with a country, or countries, willing to admit refugees subject to an expulsion order after having committed serious crimes. This can facilitate the enforcement of expulsion decisions, provided that all relevant conditions under international refugee law and other applicable international obligations, including under international human rights law, are met.

22. In the context of expulsion, international refugee law does not require the refugee to have a prior connection with the country of destination. However, the expelling State must ensure that the refugee is deported only where legal admission is secured, and where the refugee will be protected against refoulement in line with international refugee law, if applicable,³⁰ and broader international human rights obligations.

23. Arrangements for the expulsion of refugees who have committed serious crimes are best governed by legally binding agreements that are enforceable and challengeable in a court of law, including by the affected refugees. These agreements should specify the conditions under which deportations may occur; the responsibilities of the participating States; and the criteria and safeguards necessary to protect the rights and safety of the individuals concerned.

24. Agreements for the expulsion of refugees should be publicly accessible and incorporated into the domestic legal system of participating States. This promotes accountability and provides clarity for affected individuals regarding their rights. Such

²⁸ See, among others, Article 3 of the 1984 Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT); Article 16 of the International Convention for the Protection of All Persons from Enforced Disappearance (ICED); Articles 6 and 7 ICCPR. See also, at regional level, Article 22(8) ACHR; Article 5 ACHPR; Article 3 ECHR; and Article 4 and 19(2) of the EU Charter. These provisions prohibit in absolute terms the removal to a State where there is a serious risk of a person being subjected to torture and inhuman or degrading punishment or treatment irrespective of the conduct of the person concerned.

²⁹ See Paragraph 13 of the Schedule to the 1951 Convention. Pursuant to Paragraph 6(2) of the Schedule, the validity of a Convention Travel Document can be extended by the diplomatic or consular authorities of the country that issued it.

³⁰ The expelling State is not bound by the non-refoulement principle under international refugee law if an exception under Article 33(2) of the Convention is applicable to the refugee to be expelled. See paras 13 -14 above.

transparency enhances legal certainty for both States and individuals, thereby improving the effectiveness, fairness and durability of the arrangement.

25. To function effectively, UNHCR recommends that agreements for the expulsion of refugees include binding and enforceable commitments by the receiving State to admit the expelled refugees and protect them against serious harm. The expelling State may rely on these commitments – whether given in relation to an individual case or as part of an agreement governing the deportation of refugees from one State to another – only if they effectively eliminate any risk of persecution or other serious harm for the individual concerned.

26. Agreements for the expulsion of refugees should also define the obligations of the expelling State before and after the deportation, including enforcement measures and monitoring mechanisms to ensure compliance by the receiving State. While the expelling State is not responsible for refugees once they have been lawfully removed to the jurisdiction of another State, it should exercise due diligence to verify that conditions in the destination State continue to meet agreed standards in law and practice. Regular monitoring is important to maintain the integrity of the agreement and to ensure that deportation is not implemented where it would be in breach of applicable standards and obligations. Agreements for the expulsion of refugees should include a clause requiring suspension or termination of the agreement if credible information indicates that agreed standards are not being met.

Measures in the host State if expulsion cannot be implemented

27. Even if the conditions for expulsion under international refugee law are met, implementation may still be barred due to the host State's broader human rights obligations. In such circumstances, the host State may periodically reassess whether the factual or legal impediments that prevented the implementation of expulsion continue to apply in respect of the country of destination identified, and/or whether an alternative State willing to admit the refugee can be identified.

28. Where removal cannot be implemented, restrictions on freedom of movement or liberty for the purpose of expulsion may no longer be justified. The host State may nevertheless adopt lawful measures to address legitimate national security or public order concerns. Depending on the circumstances, they may include:

- withdrawal of permanent or long-term residence permits and replacement with temporary permits, and/or imposition of periodic check-ins or other conditions;
- restrictions on freedom of movement (e.g. curfews, limiting residence to a designated area);
- establishment of programmes to assist the individual in identifying a third country of destination;
- participation in rehabilitation and reintegration programmes.

29. The application of any measures which, individually or cumulatively, involve restrictions on freedom of movement must constitute an alternative to detention, rather than an alternative form of detention. They must be based on law, necessary and proportionate, subject to review and in conformity with applicable legal standards and safeguards.³¹

³¹ See above at fn. 27.

30. In exceptional circumstances, the host State may, if expulsion cannot be implemented, resort to detention on national security or public order grounds, provided it is strictly necessary, proportionate to the threat, based on grounds and procedures established by law, and subject to judicial oversight.³²

UNHCR
21 August 2026

³² *Ibid.* For general guidance on detention, see also, UN Human Rights Committee, [General comment No. 35, Article 9 \(Liberty and security of person\)](#), 16 December 2014, CCPR/C/GC/35.