

WHY WITHDRAW RESERVATIONS TO THE 1951 CONVENTION RELATING TO THE STATUS OF REFUGEES AND ITS 1967 PROTOCOL

Withdrawing reservations provides refugees with basic rights and strengthens their protection

The 1951 Convention and its 1967 Protocol allow for reservations to be made to certain provisions upon accession to take account of special conditions prevailing at the time in the respective country. As per Article VII (2) of the 1967 Protocol, reservations made in accordance with Article 42 of the 1951 Convention are also applicable to obligations under the 1967 Protocol, unless withdrawn. States may make an interpretative declaration, which does not modify the legal effect of a provision but expresses how a particular State understands certain aspects of the 1951 Convention and its 1967 Protocol. Declarations that attach a condition to adherence to the treaty or to a specific provision of the treaty are subject to the rules on reservations.¹

As of November 2023, 44 per cent of States maintained reservations to important provisions of the 1951 Convention and its 1967 Protocol. Most limit the core rights of refugees – including the right to work, freedom of movement and access to basic services.

Over time, and in response to changes in circumstances, some States decided to withdraw reservations made at the time of their accession to the 1951 Convention and its 1967 Protocol. In some cases, reservations became irrelevant after some time because States have enacted national legislation in line with the provisions of the 1951 Convention and its 1967 Protocol and/or provide refugees with access to these rights in practice. Such steps are commendable and deserve to be recognized. Withdrawing reservations that only continue to exist on the books is an important step in demonstrating a State's commitment to the protection of refugees and in doing justice to the efforts made by the State and the host societies.

Strong legal frameworks are central to providing effective protection to those seeking safety from conflict or persecution. UNHCR urges States to renew their commitment to comply with international legal principles and standards on the protection of refugees by withdrawing their reservation(s) to the 1951 Convention and/or its 1967 Protocol.

Withdrawing reservations allows refugees to actively participate in and contribute to their host communities

Reservations limit the effectiveness of the 1951 Convention and its 1967 Protocol in ensuring that refugees can exercise their rights in dignity and free from discrimination. Millions of refugees live in protracted situations, often in low- and middle-income countries facing their own economic and development challenges. Increasing their level of rights empowers refugees to live self-reliant lives, to actively participate in the society and to positively contribute to the economies of the host country.

Some States may be willing to withdraw their reservation(s), but fear resistance within host societies. Withdrawing reservations signals the State's willingness to provide refugees with access to their rights and thereby helps UNHCR to mobilize international funding and other

¹ International Law Commission, *Guide to Practice on Reservations to Treaties*, 2011, Guideline 1.4, para. 1. See Jeremy Hill, *Aust's Modern Treaty Law and Practice, Fourth edition*, 2023, Cambridge University Press, pp. 139–141.

support by a wide range of stakeholders to mitigate possible effects on the host communities and to contribute to the development of the country. Moreover, strong legal frameworks and inclusion in development plans and national systems will lead to better outcomes for refugees and host societies.

Withdrawing reservations empowers refugees to find their own solutions

By withdrawing reservations to the 1951 Convention and/or its 1967 Protocol, a State underlines its willingness to provide refugees with access to their rights, enabling them to find the solutions that work best for them. The 1951 Convention and its 1967 Protocol provide refugees with rights that enable them to live self-reliant lives and to actively participate in the social and economic life of host countries, promoting growth and prosperity, including for the host society. Developing refugees' skills and providing them with rights such as freedom of movement and travel documents can also contribute to refugees accessing regular pathways and prevent dangerous onward movement. It also increases their capacity to successfully reintegrate into their countries of origin and contribute to building strong institutions in case of voluntary return.

Why is now a good time to withdraw reservations?

The Global Refugee Forum (GRF) provides an opportunity for States, refugees and host communities, development actors, international financial institutions, the private sector, civil society organizations, faith-based organizations, international organizations, cities, municipalities and local authorities, academia and researchers, parliaments, sports organizations, and other stakeholders to take stock, announce new pledges, and share learning to help reach the goals of the Global Compact on Refugees (GCR). The GRF is the ideal forum for States to demonstrate their commitment to the protection of refugees by withdrawing their reservations to the 1951 Convention and/or its 1967 Protocol and thereby reinforce the international framework for refugee protection.

The GRF also facilitates matching law and policy pledges by host countries with pledges by donors, development actors and other stakeholders to provide the financial, material, technical or other support necessary for their implementation. Matching translates the principle of responsibility-sharing into action, providing a concrete and coordinated way for traditional and non-traditional partners to support and resource the commitments made by host countries.

HOW TO WITHDRAW RESERVATIONS/DECLARATIONS TO THE 1951 CONVENTION AND ITS 1967 PROTOCOL

Step-by-step process

- A State can withdraw reservations² previously formulated with respect to the 1951 Convention and/or its 1967 Protocol at any time by depositing an instrument of withdrawal of reservations with the United Nations Secretary-General.
- The steps to withdraw reservations to the 1951 Convention and its 1967 are the same.
- The instrument(s) of withdrawal must be signed by the Head of State or Government or the Foreign Minister.
- The instrument(s) is/are then transmitted through the Permanent Mission of the State to the United Nations Headquarters in New York.
- States are advised to deliver the instrument(s) to the Treaty Section of the United Nations directly to ensure the action is promptly processed.
- In addition to delivery by hand, the instrument(s) may also be emailed to the Treaty Section at treatysection@un.org. In accordance with the United Nations Secretary General's depositary practice, if a State initially sends by email a signed copy of an instrument, such copy may be accepted for deposit but that State must provide the original as soon as possible thereafter to the Treaty Section.
- A general model instrument of withdrawal is available in all six UN languages at www.treaties.un.org/doc/source/modelinstruments/model_instrument_of_withdrawal_of_reservation-English.pdf
- A model instrument for withdrawing reservations to the 1951 Convention can be found in English in Annex I.
- A model instrument specific for withdrawing reservations to the 1967 Protocol can be found in English in Annex II.

Checklist of procedures for withdrawal of reservations/declarations

- ✓ Prepare and execute the instrument(s) of withdrawal of reservation(s) in accordance with the model instrument.
- ✓ Deposit the instrument(s) of withdrawal of reservations delivered by hand with the Treaty Section of the United Nations Headquarters in New York.
- ✓ If the instrument is emailed, make sure to provide the original copy as soon as possible.
- ✓ Ensure that any relevant national legislation is brought in line with the commitments resulting from the withdrawal of the reservation(s).

² In accordance with Article 42 (2) of the 1951 Convention and Article VII (3) of the 1967 Protocol.

Further resources

- On the 1951 Convention and its 1967 Protocol, its history, core principles and related rights and obligations of refugees:

UNHCR website, the 1951 Refugee Convention: www.unhcr.org/about-unhcr/who-we-are/1951-refugee-convention

- On the Global Compact on Refugees:

Global Compact on Refugees website: www.globalcompactrefugees.org

UNHCR website, Global Compact on Refugees: www.unhcr.org/about-unhcr/who-we-are/global-compact-refugees

Global Compact on Refugees Indicator Report:

www.globalcompactrefugees.org/global-compact-refugees-indicator-report

- On international and regional treaties relating to refugees:

UNHCR Refworld: www.refworld.org

- On international refugee protection and building state asylum systems:

Inter-Parliamentary Union (IPU) and UNHCR, A guide to international refugee protection and building state asylum systems, Handbook for Parliamentarians N° 27, 2017: www.refworld.org/docid/5a9d57554.html

- On UNHCR and its work:

UNHCR website: www.unhcr.org

UNHCR Global Report: www.unhcr.org/what-we-do/reports-and-publications/global-report

UNHCR Global Trends Report: www.unhcr.org/global-trends

Contact

For questions regarding accession and withdrawal of reservations to the 1951 Convention and/or its 1967 Protocol, please contact the UNHCR representation in your country:

www.unhcr.org/about-unhcr/where-we-work.

For more information generally on accession and withdrawal of reservations to international treaties, please contact the United Nations Treaty Section:

www.treaties.un.org/pages/Contact.aspx?clang=en.

Official communications from Governmental authorities or other entities relating to the depositary, registration and publication functions of the Treaty Section may be addressed to:

Treaty Section
Office of Legal Affairs
United Nations
2 UN Plaza - 323 E 44th Street
Room DC2-0501
New York, NY 10017
United States of America

ANNEX I

**MODEL INSTRUMENT OF WITHDRAWAL OF RESERVATION(S)
TO THE CONVENTION RELATING TO THE STATUS OF REFUGEES OF 1951**

WHEREAS the Government of [name of State] [ratified, approved, accepted, acceded to] the Convention Relating to the Status of Refugees of 1951 on [date],

AND WHEREAS, upon [ratification, approval, acceptance of / accession to] the [Convention Relating to the Status of Refugees of 1951 / Protocol Relating to the Status of Refugees of 1967], the Government of [name of State] made (a) reservation(s) [- --] of the Convention,

NOW THEREFORE I, [name and title of the Head of State, Head of Government or Minister for Foreign Affairs], declare that the Government of [name of State], having reviewed the said reservation(s), hereby withdraws the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal.

[Public Seal and Signature
of custodian if appropriate]

[Signature of Head of State
or of Head of Government
or of Foreign Minister]

ANNEX II

**MODEL INSTRUMENT OF WITHDRAWAL OF RESERVATION(S)
TO THE PROTOCOL RELATING TO THE STATUS OF REFUGEES OF 1967**

WHEREAS the Government of [name of State] [ratified, approved, accepted, acceded to] the Protocol Relating to the Status of Refugees of 1967 on [date],

AND WHEREAS, upon [ratification, approval, acceptance of / accession to] the Protocol Relating to the Status of Refugees of 1967, the Government of [name of State] made (a) reservation(s) to article(s) [---] of the Protocol,

NOW THEREFORE I, [name and title of the Head of State, Head of Government or Minister for Foreign Affairs], declare that the Government of [name of State], having reviewed the said reservation(s), hereby withdraws the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal.

[Public Seal and Signature
of custodian if appropriate]

[Signature of Head of State
or of Head of Government
or of Foreign Minister]