

Guidelines on the Detention of Stateless Persons: Consultation Draft

The Equal Rights Trust

The Guidelines on the Detention of Stateless Persons (the Guidelines) address a gap in international protection, which has made many stateless persons vulnerable to arbitrary detention.

States have a sovereign right to control their borders and if necessary to use administrative detention for these purposes, but should do so in compliance with international human rights law.

All stateless persons benefit from the protection of international human rights law. Their rights should be respected, protected, and fulfilled at all times, including in the exercise of immigration control. De jure stateless persons enjoy additional protections under the 1954 Convention Relating to the Status of Stateless Persons (the 1954 Convention).

Stateless persons lack the protection of a nation state. The de jure stateless are not nationals of any country. They are without any consular protection and are highly unlikely to have proper documentation. The de facto stateless do not have an effective nationality. They lack access to effective consular protection and often have difficulty in obtaining necessary documentation.

The need for these Guidelines has become evident in a context of increasing use of immigration detention, criminalisation of irregular immigration and use of administrative detention for punitive purposes by a growing number of states. These developments have occurred without regard to the specific circumstances of stateless persons and the implications of international human rights law for the detention of stateless persons.

The circumstances facing de jure and de facto stateless persons are significant factors to be taken into account in determining the lawfulness of immigration detention. The process of resolving the identity of stateless persons

and a stateless person's immigration status is often complex and burdensome. Lawful removal of such persons is generally subject to extensive delays and is often impossible. Stateless persons detained for these purposes are therefore vulnerable to prolonged detention. These factors in turn make stateless persons especially vulnerable to the negative impact of detention. The emotional and psychological stress of lengthy – even indefinite – periods of detention without hope of release or removal is particularly likely to affect stateless persons. These Guidelines explain how these factual circumstances should affect decisions as to the lawfulness of detaining a stateless person.

States are obligated by international law to treat stateless persons in a way which is appropriate in the light of their statelessness. States will be unable to comply with that obligation unless they take measures to identify whether those at risk of detention are stateless. These Guidelines set out the minimum standards which states should apply in relation to the identification of stateless persons.

These Guidelines draw from internationally accepted human rights norms and principles. They do not attempt to develop new legal principle; rather to elaborate how existing human rights principles relating to detention and non-discrimination, and international law on statelessness apply to the specific challenge of the detention of stateless persons. Consequently, the Guidelines reflect and formulate the existing human rights obligations of states towards stateless persons in their territory and within their jurisdiction.

These Guidelines also draw from international good practice, and recommend actions which go beyond the minimum obligations of international human rights law. Such recommendations provide guidance on how states could offer better protection to stateless persons within their territory and jurisdiction.

These Guidelines comprise four parts. Part One focuses on definitions, the scope and interpretation of the Guidelines and the basic principles which should govern all aspects of their implementation. Part Two focuses on the identification of stateless persons and Part Three on the detention of stateless persons. Part Four is a series of miscellaneous concluding guidelines.

Part I – Definitions, Scope, Interpretation and Basic Principles

Definitions

1. A *de jure* stateless person is defined under international law as a woman, man or child “who is not considered as a national by any state under the operation of its law”.¹
2. A person who has a legal nationality which is ineffective – for example, a person who does not benefit from consular protection from his or her country of evident nationality – is considered to be *de facto* stateless. A person may be *de facto* stateless their entire life, for a limited period of time, or only in a specific country or context.
3. Detention is understood to mean “**confinement within a narrowly bounded or restricted location, including prisons, closed camps, detention facilities or airport transit zones, where freedom of movement is substantially curtailed, and where the only opportunity to leave this limited area is to leave the territory.** There is a qualitative difference between detention and other restrictions on freedom of movement”.² When considering whether a stateless person is in detention, the cumulative impact of the restrictions as well as the degree and intensity of each of them should also be assessed.³
4. Administrative detention is understood to mean detention for the sole purpose of achieving a legitimate administrative objective such as identification, status determination or removal.

Scope

5. These Guidelines generally apply to the detention of both *de jure* and *de facto* state-

less persons. Unless the Guidelines specifically refer to either *de jure* or *de facto* stateless persons, they should be understood to be equally applicable to both groups.

6. These Guidelines apply to the detention of, and decisions to detain, all stateless persons within the territory or jurisdiction of states.
7. The need for these Guidelines arises in the context of the administrative immigration detention of stateless persons, primarily for the purpose of removal to a third country, but also for other purposes.
8. These Guidelines also address the identification of stateless persons, which is a necessary pre-requisite for the adequate protection of stateless persons.

Interpretation

9. Any exceptions to the protections stated in these Guidelines should be interpreted in the narrowest possible manner.
10. In all circumstances, these Guidelines should be interpreted in a manner which provides the greatest protection for stateless persons, promotes their human rights and protects them from arbitrary and unlawful detention. Under no circumstances should these Guidelines be interpreted in a manner which limits the enjoyment of human rights by stateless persons.
11. These Guidelines are mainly a reflection of the existing human rights obligations of states towards stateless persons within their territory or jurisdiction. Such Guidelines use directive language – i.e. “states should”, “states shall”, “states have a duty”, etc. Where the Guidelines contain good practice recommendations this is re-

flected through the use of more persuasive language – i.e. “it is desirable that”.

Basic Principles and Assumptions

12. States have a duty to respect, protect and fulfil the human rights of stateless persons within their jurisdiction, including the right to be free from arbitrary and unlawful detention.

13. The human rights obligations of states in respect of stateless persons apply at all times, including in the exercise of immigration control.

14. All persons, including stateless persons, are equal before the law and are entitled without any discrimination to the equal protection of the law. National laws pertaining to immigration detention should not discriminate against stateless persons and should not be applied in a discriminatory way. Immigration detention regimes should be designed and implemented in a manner which takes due consideration of the challenges of statelessness and of the obligations of the state in respect of stateless persons.

15. States should refrain from both direct and indirect discrimination against stateless persons in designing and implementing laws relating to immigration detention, and should ensure that they reasonably accommodate the particular circumstances of stateless persons. Equal treatment, as an aspect of equality, is not equivalent to identical treatment. To realise full and effective equality, it is necessary to treat people differently according to their different circumstances.⁴

16. States should refrain from treating stateless persons less favourably than others because of their statelessness, including by deciding to detain, prolonging the detention of,

or imposing less favourable detention conditions upon a person because of that person’s statelessness. In addition, policies and practices should not unjustifiably place stateless persons at a particular disadvantage or have a particularly negative impact upon them.

17. States which are party to the 1954 Convention have a legal obligation to treat *de jure* stateless persons within their territory or jurisdiction in accordance with the provisions of that Convention.

18. The United Nations High Commissioner for Refugees (UNHCR) has a special mandate to prevent and reduce statelessness and to protect stateless persons. The UNHCR has an obligation to fulfil this mandate to the best of its ability and states should at all times fully cooperate with the UNHCR in the fulfilment of this mandate.

19. States have the right to protect their nationals when they are abroad. States should exercise this right with due regard to their international human rights obligations, as the failure or inability of consulates to provide such protection can create *de facto* statelessness.

Part II - Identifying Stateless Persons

Identifying Stateless Persons

20. All immigration regimes which impose detention for administrative purposes should have efficient, effective and fair procedures in place for the identification of stateless persons. It is highly desirable that such procedures provide that in determining whether a person is *de facto* stateless, due regard shall be had to the full range of factors which can undermine the effectiveness

of a person's nationality, including where the person concerned is from a State:

- (i) which has no diplomatic presence in the host State;
- (ii) which has strained diplomatic relations with the host State;
- (iii) to which there are no effective transport routes;
- (iv) which is incapable of protecting its nationals; and/or
- (v) which has a record of failing to cooperate with removal proceedings including through the issue of passports and travel documents.

21. Persons should be subject to statelessness determination procedures when they are at risk of immigration detention, before a decision to detain has been made. When the nationality of failed asylum-seekers is in doubt, it is highly desirable that they should be automatically subject to statelessness determination procedures. All persons subject to such procedures should be allowed to remain in the country pending final decision.

22. All persons subject to statelessness determination procedures should be informed at the very beginning of the procedure of the right to raise refugee-related concerns. In determining whether an asylum-seeker is stateless, the State should in all circumstances ensure that the asylum-seeker's confidentiality is maintained.

23. The following minimum procedural and substantive standards should be ensured in all procedures for the identification of stateless persons:

- (i) All procedures should be objective, fair and just.
- (ii) All procedures should be non-discriminatory, and applied without discrimina-

tion, including by accommodating, to the extent reasonable, the needs of persons who are vulnerable to discrimination including women, children, the elderly and disabled persons and others who may have particular needs, such as victims of torture and victims of trafficking.

(iii) All procedures should be completed within a reasonable period of time. The fairness of the procedure should not be undermined in order to complete it within a specified period of time.

(iv) All persons subject to such procedures should be provided with adequate information about the procedure and should be notified of their rights under the procedure.

(v) All persons subject to such procedures should be entitled to legal assistance. It is highly desirable that legal aid is provided to persons who do not have the means to pay for legal assistance.

(vi) Interpretation and translation facilities should be provided free of charge to all persons who require such facilities within such procedures.

(vii) All data and information collected during such procedures should be kept confidential in compliance with data protection laws.

(viii) All persons subject to such procedures should be given free and regular access to the UNHCR and to NGOs that are able to assist. It is highly desirable that the UNHCR plays a formal advisory role in such procedures.

(ix) The standard of proof required for the establishment of statelessness should be a reasonable standard of proof.

(x) The burden of proof should be shared by the State concerned and the individual.

(xi) Evidence of the lack of nationality should only be required in respect of those States with which the person has clear ties, including through long-term residence, descent and birth.

(xii) All persons subject to such procedures

should be kept informed of the process at all stages and should be informed of the results of the process in writing, with reasons given. (xiii) All decision-makers and persons who play a role in the procedure (including lawyers) should be adequately qualified and given training on the identification of stateless persons.

(xiv) All decisions should be subject to independent review – either judicial or administrative – and accompanied by a right of appeal.

Part III – The Detention of Stateless Persons

Decision to Detain

24. The detention of stateless persons for purposes of identification, status determination or removal is inherently undesirable and there should be a presumption against their detention.

25. The detention of stateless persons should never be arbitrary. Mandatory immigration detention is arbitrary and therefore unlawful under international human rights law.

26. Detention will be arbitrary unless it is *inter alia*:

- (i) carried out in pursuit of a legitimate objective;
- (ii) lawful;
- (iii) non-discriminatory;
- (iv) necessary;
- (v) proportionate and reasonable; and
- (vi) carried out in accordance with the procedural safeguards of international law.

27. Administrative expediency does not in itself constitute a legitimate objective of ad-

ministrative detention, nor can administrative detention be used for punitive purposes. Detention should not be used as a deterrent to irregular immigration.

28. Removal will not be a legitimate objective in instances where it:

- (i) violates international law obligations of *non-refoulement*; and
- (ii) violates the individual's right to respect for private and family life. The age of the individual when they first arrived in the host state, as well as their family and other ties both within the host state and the state to which removal is sought, are relevant factors for consideration in this regard.

29. In order for detention to be lawful, domestic law should prescribe the substantive and procedural safeguards which must be satisfied in order to detain a person and the detention must be carried out strictly in accordance with both national and international law by persons legally authorised for that purpose.

30. There is some overlap in the application of the principles of non-discrimination, necessity, proportionality and reasonableness to the decision to detain stateless persons. The following considerations should be taken into account in determining whether detention is non-discriminatory, necessary, proportionate and reasonable:

- (i) A person should not be detained solely by reason of his or her statelessness.
- (ii) Detention should only be used as a measure of last resort. Before a decision to detain has been taken, all other less coercive and restrictive ways of achieving the administrative objective at hand should first have been explored and exhausted. Guidelines 32 – 38 elaborate on alternatives to detention.
- (iii) In order to meet these criteria, deten-

tion should be a necessary, proportionate and effective means of achieving the administrative objective pursued. In the case of a stateless person who is likely to be impossible to remove, detention for the purpose of removal is likely to be arbitrary, as it would not achieve that purpose.

(iv) The length of time it is likely to be necessary to detain a person in order to achieve the objective pursued will be an important factor in the assessment of the proportionality and reasonableness of detention. Given the difficulty of establishing the immigration status of a stateless person and/or of removing a stateless person, detention of a stateless person for these purposes is rarely likely to be proportionate and reasonable.

(v) Before any stateless person is detained for purposes of removal, the likelihood of removal should first be assessed with due diligence. If there is no reasonable expectation of removal within a specific period of time that is no longer than six months, the person should not be detained.

(vi) Stateless persons are particularly vulnerable to the negative impact of detention, including the psychological impact, owing to their unique vulnerability to prolonged detention. This could render their detention discriminatory, disproportionate and unreasonable.

(vii) The inability of a stateless person to cooperate with removal proceedings should not be treated as non-cooperation, and should not be grounds for detention.

31. All persons at risk of immigration detention, including stateless persons, should enjoy the procedural safeguards prescribed by international human rights law during the detention decision-making process.

Alternatives to Detention

32. States have an obligation at all times to implement viable alternatives to detention

that are less coercive and that better protect the human rights of stateless persons.

33. Alternatives to detention should be given due consideration and used whenever a person would otherwise be detained, and not only once initial attempts to achieve the administrative objective sought, such as removal, have failed.

34. There are many alternatives to detention. It is preferable that states have a range of alternatives available so that the best alternative for a particular individual and/or context can be applied in keeping with the principle of proportionality and the right to equal treatment before the law.

35. The choice of an alternative should be influenced by an individual assessment of the needs and circumstances of the stateless person concerned and prevailing local conditions.⁵ The most desirable alternative to detention is “liberty”. Other alternatives include:

- (i) community-based supervised non-detention or case management;
- (ii) monitoring and reporting requirements; and
- (iii) bail, bond, surety or guarantor.

36. The imposition of alternatives to detention which restrict a stateless person’s liberty should be subject to the same procedural and substantive safeguards as a detention regime. States should, therefore, apply all the relevant standards specified in these Guidelines and under international law to ensure that alternatives to detention pursue a legitimate objective, are lawful, non-discriminatory, necessary, proportionate and reasonable.

37. Where a stateless person is subject to one or more such alternatives to detention

they should be subject to regular, periodic review to ensure that they continue to pursue a legitimate objective, be lawful, non-discriminatory, necessary, proportionate and reasonable. In particular, alternatives to detention should be applied for the shortest possible time within which the purpose of removal or other legitimate administrative purpose can be achieved.

38. If there is evidence to demonstrate that the administrative objective pursued, such as removal, cannot be achieved within a reasonable period of time, the person concerned should not be subject to such alternatives to detention.

Vulnerable Groups

39. The initial screening of all stateless persons should identify whether any stateless person belongs to a group which is particularly vulnerable to discrimination or the negative effects of detention.

40. Certain stateless persons are of heightened vulnerability due to their specific characteristics, context and/or experience. Such persons include disabled persons, those with specific physical and mental health conditions and needs, victims of trafficking, victims of torture, cruel, inhuman or degrading treatment or punishment, those belonging to minorities which are at heightened risk of discrimination in detention, children, the elderly, pregnant women and nursing mothers. The strongest possible presumption against detention should apply to such persons, and detention should only be allowed (in addition to fulfilling all other criteria stated in these Guidelines) after it has been medically certified that the experience of detention would not adversely impact their health and wellbeing. Furthermore, such persons

should also have regular access to all appropriate services, such as hospitalisation, medication and counselling.

41. The strongest possible presumption against the detention of stateless children should be applied. Stateless children should at all times be treated in accordance with the principle of the best interest of the child. Children should not be detained because they or their parents, families or guardians do not have legal status in the country concerned. Families with stateless children should not be detained and the parents of stateless children should not be separated from their children for purposes of detention.

42. As a general rule, stateless asylum-seekers should not be detained. The detention of asylum-seekers may exceptionally be resorted to for limited purposes as set out by the UNHCR, as long as detention is clearly prescribed by national law and conforms to general norms and principles of international human rights law.⁶

Ongoing Detention

43. In instances where stateless persons are nonetheless detained, they should be entitled to the following minimum procedural guarantees:

(i) Detention should be ordered by and/or be subject to the effective control of a judicial authority.

(ii) The individual should receive prompt and full written communication in a language and in terms that they understand, of any order of detention, together with the reasons for their deprivation of liberty.

(iii) The individual should be informed of their rights in connection with the detention order, including the right to legal counsel and

their right to seek judicial review and/or appeal the legality of their detention. Where appropriate, they should receive free legal assistance.

(iv) The individual should be informed of the maximum time-limit of their detention.

(v) All detention authorities are urged to provide stateless detainees with a handbook on detention in a language they understand, containing information on all their rights and entitlements, contact details of organisations which are mandated to protect them, NGOs and visiting groups and advice on how to challenge the legality of their detention and their treatment as detainees.

44. Detention should never be indefinite. Statelessness should never lead to indefinite detention and statelessness should never be a bar to release.

45. Detention should always be for the shortest time possible. There should always be a reasonable maximum time-limit for detention. There is no accepted international standard with regard to a maximum time-limit on detention; however, many countries do not detain immigrants for more than six months. It is therefore highly desirable that all states detain stateless persons for no more than six months. States which have a lower maximum time-limit to detention should not increase it. Upon the expiry of the maximum period for detention, a stateless detainee should be released.

46. The administrative purpose behind the detention should be pursued with due diligence throughout the detention period for the purpose of ensuring that detention does not become arbitrary at any stage. Detention should be subject to automatic, regular and periodic review throughout the period of detention before a judicial or administrative

body independent of the detaining authorities. As soon as it becomes evident that the administrative purpose cannot be achieved within a reasonable period of time, or that the detention otherwise becomes incompatible with the tests set out in Guidelines 24 to 30, the detainee should be released.

Conditions of Detention

47. Conditions of detention should be prescribed by law and should comply with international standards. Of particular relevance are the 1955 UN Standard Minimum Rules for the Treatment of Prisoners,⁷ the 1988 UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment,⁸ the 1990 UN Rules for the Protection of Juveniles Deprived of their Liberty,⁹ and the 1999 UNHCR Revised Guidelines on Applicable Criteria and Standards Relating to the Detention of Asylum Seekers.¹⁰

48. While all international standards on conditions of detention should be complied with, the following are emphasised in particular:

(i) Conditions of detention for stateless persons should be humane, with respect shown at all times for the inherent dignity of the person. No detainees should be subject to torture, cruel, inhuman or degrading treatment or punishment.

(ii) Stateless persons should be treated without discrimination and should be entitled to the same detention conditions as other immigration detainees.

(iii) Stateless persons in detention should be subject to treatment that is appropriate to their unconvicted status. Under no circumstances should stateless detainees be housed in the same facilities as prisoners. Immigration detention facilities should be designed and built in compliance with the principle

that there is no punitive element to immigration detention. As such, detention centres should facilitate the living of a normal life to the greatest extent possible.

(iv) Women and men should be detained separately unless they belong to the same family.

(v) Reasonable accommodation should be provided to ensure that disabled persons in detention are treated in accordance with international human rights law.

(vi) Stateless persons in detention should be protected from discrimination and harassment.

(vii) All stateless detainees should be allowed free and frequent access to: (i) their families, friends, communities, religious and visiting groups; (ii) their legal counsel; (iii) the UNHCR; (iv) the consulate of any state in order to establish nationality or the lack thereof; and (v) other NGOs and visitors groups.

(viii) Due consideration and care should be taken to provide for all human rights of stateless persons in detention; in particular, the rights to respect for private and family life, freedom of thought, conscience and religion, freedom of expression and the rights to health, education, shelter and food, in accordance with international legal standards.

49. All detention centres should be regularly monitored by independent authorities mandated to inspect detention centres to ensure that they comply with national and international legal requirements.

Foreign National Prisoners

50. In many States, non-citizens who have been convicted of criminal offences are subject to mandatory removal proceedings after serving their criminal sentences. States are urged to follow the safeguards below, to ensure that stateless foreign national prisoners are not subject to unlawful detention:

(i) All foreign national prisoners should be subject to a statelessness determination procedure at the beginning of their prison sentence. Where there is evidence to suggest that a foreign national prisoner is stateless, any further detention after the completion of their sentence is likely to be unnecessary, disproportionate and arbitrary as, save in relation to very short sentences, the authorities were in a position to determine whether removal was reasonably possible during the imprisonment of the person concerned.

(ii) Removal proceedings against foreign national prisoners should begin a minimum of six months prior to the completion of their prison sentence. Where there is no reasonable expectation that the individual can be removed at the time their sentence is complete, foreign national prisoners should not be automatically subject to further detention pending removal.

(iii) If foreign national prisoners are considered to be a threat to the general public or to national security after they have served their sentences, they should be tried and sentenced under the criminal law. In such circumstances, they should not be held in immigration detention.

Part IV – Miscellaneous and Concluding Guidelines

Data and Statistical Information

51. It is highly desirable that all States maintain reliable data, disaggregated by protected characteristic, showing:

- (i) the number of stateless detainees;
- (ii) the reasons for their detention;
- (iii) the length of their detention; and
- (iv) the outcomes of their detention.

52. It is highly desirable that States maintain reliable data, disaggregated by protected characteristic, showing :

- (i) the number of persons who have been subjected to statelessness determination procedures; and
- (ii) the number of persons who have been recognised as stateless.

Criminalisation of Immigration Offences

53. The position of stateless persons differs fundamentally from that of other migrants in that they may not be able to comply with the legal formalities of entry to a third country. Statelessness and its direct consequences, including travelling without documentation, should therefore not be criminalised.

54. Immigration detention should under no circumstances have a penal element to it. Immigration detention should solely be for administrative purposes.

55. Immigration detention should not be used as a punishment for those who do not cooperate with removal proceedings.

Release

56. State obligations towards stateless persons do not cease after release from detention.

57. Stateless persons who are released from detention should never be released into a state of vulnerability or destitution in breach of their human rights.

58. Released stateless detainees should have equal access to healthcare and social welfare as nationals. It is highly desirable that they are given adequate housing and access to education.

59. It is highly desirable that released stateless detainees are allowed to work.

60. It is highly desirable that released stateless detainees are given legal leave to remain in the country concerned.

61. It is most desirable that durable solutions are found for statelessness, including the naturalisation of stateless persons in third countries where they live.

Compensation

62. All stateless persons who have been subject to unlawful and arbitrary detention should be duly compensated.

63. Such compensation should take into account the length of detention, the impact of detention on the individual and the nature of treatment to which the detainee was subject.

64. Compensation should be paid at the same scale that compensation is paid to nationals in similar circumstances.

Exclusion Clauses

65. All stateless persons who are excluded from the protection of the 1954 Convention because “there are serious reasons for considering that:

(a) They have committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provisions in respect of such crimes;

(b) They have committed a serious non-political crime outside the country of their residence prior to their admission to that country;

(c) They have been guilty of acts contrary to the purposes and principles of the United Nations”,¹¹

should be subject to lawful exclusion procedures – as developed under international refugee law – and should not be held in immigration detention. Such persons continue to benefit from the protection of international human rights law. If necessary, such persons should be charged, tried and if found guilty, convicted under the criminal or anti-terrorism laws of the country concerned, with strict regard to and application of rules of due process and equality before the law.

Concluding Guideline

66. It is recommended that states review their immigration policies and immigration detention regimes and take all necessary steps to bring them into adherence with the state's human rights obligations to protect stateless persons within their territory or jurisdiction and to reduce and prevent statelessness.

¹ Convention Relating to the Status of Stateless Persons, ECOSOC RES/526 A(XVII) (1954), Article 1(1).

² UN High Commissioner for Refugees, *UNHCR's Revised Guidelines on Applicable Criteria and Standards relating to the Detention of Asylum-Seekers*, 26 February 1999, available at: <http://www.unhcr.org/refworld/docid/3c2b3f844.html> [accessed on 13 July 2011], Guideline 1.

³ *Ibid.*, adapted from Guideline 1.

⁴ The Equal Rights Trust, *Declaration of Principles on Equality*, 2008, p. 5, available at: <http://www.equalrightstrust.org/ertdocumentbank/Pages%20from%20Declaration%20perfect%20principle.pdf>.

⁵ See above, note 2, adapted from Guideline 4.

⁶ *Ibid.*, adapted from Guidelines 2 and 3.

⁷ United Nations, *Standard Minimum Rules for the Treatment of Prisoners*, 30 August 1955.

⁸ UN General Assembly, *Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment: resolution / adopted by the General Assembly*, A/RES/43/173, 9 December 1988.

⁹ UN General Assembly, *United Nations Rules for the Protection of Juveniles Deprived of Their Liberty: resolution / adopted by the General Assembly*, A/RES/45/113, 14 December 1990.

¹⁰ See above, note 2.

¹¹ See above, note 1, Article 1(2)(iii).