

**INDEPENDENT DECLARATION ON
THE RIGHT OF PERSONS WITH EXPERIENCE OF FORCED DISPLACEMENT OR
STATELESSNESS TO PARTICIPATE IN DECISIONS THAT AFFECT THEM**

(‘JAKARTA DECLARATION ON THE RIGHT TO PARTICIPATE’)

**FINAL VERSION
WITH COMMENTARY**

15 December 2025

Introduction

1. This Independent Declaration sets out a rights-based framework for ensuring the meaningful participation of persons with experience of forced displacement or statelessness in decisions that affect them.
2. Its purpose is to strengthen international human rights law and international protection by articulating an express right to participate for persons with experience of forced displacement or statelessness. The Declaration also details related procedural rights and guarantees, in alignment with existing human rights standards, to ensure that participation is *meaningful*.
3. As an initiative led by displaced and stateless communities themselves across the globe, this Declaration is intended to apply worldwide and marks an innovative approach to international lawmaking. The Declaration was drafted over a two-year period between 2023 and 2025 and was facilitated by a global working group of displaced and stateless experts, in partnership with academics, humanitarians, lawyers and decision-makers.
4. During its drafting, more than 100 experts from around the world provided rich and diverse forms of feedback to inform its content, whether through written submissions, public consultations, surveys or email correspondence. While most of this consultation occurred virtually, this process included a high-level roundtable in Jakarta, Indonesia, which provides this Declaration with its short name.¹
5. The word ‘Independent’ in the title indicates that this Declaration is not intended to be owned by a particular institution, government, organisation or network. Rather, a key aspect of this Declaration is that it is co-owned by all who engaged in its development, as well as those who subsequently endorse it.
6. The Declaration is [open for endorsement](#) by all decision-making authorities involved in responses to forced displacement and statelessness. This includes States at every level of State governance, as well as international and intergovernmental organisations, civil society organisations, donors, private sector and philanthropic institutions, and any other actors responsible for decisions relating to persons with experience of forced displacement or statelessness. Importantly, this includes organisations and initiatives led by displaced and stateless communities themselves.
7. It is envisaged that this Declaration may form the basis for further lawmaking in the future, but equally it is hoped that it stands in its own right as a source of legal and policy influence, one that guides States and other decision-making authorities in their approaches to advancing meaningful participation.
8. This version of the Declaration includes a commentary for each article that details why the article is needed and how it should be interpreted.

¹ Further details about the drafting process can be found in the accompanying [Consultation Report](#).

Preamble

Recognising the countless contributions persons with experience of forced displacement or statelessness have made to their protection, often with little or no external support,

Expressing concern that such persons have too often been excluded from decisions that affect their lives,

Acknowledging that where participation has occurred, it has frequently been tokenistic, superficial or symbolic, and implemented in a way that does not lead to real influence or impact on the decision-making process,

Reaffirming the United Nations Global Compact on Refugees ([A/73/12 \(Part II\)](#)), which recognises that ‘[r]esponses are most effective when they actively and meaningfully engage those they are intended to protect and assist’, and the Guiding Principles on Internal Displacement ([E/CN.4/1998/53/Add.2](#)), which state that internally displaced persons shall have ‘the right to participate fully and equally in public affairs at all levels’,

Affirming the principle of *non-refoulement* and other fundamental principles that underpin the protection of persons with experience of forced displacement or statelessness,

Recalling that the meaningful participation of persons with experience of forced displacement or statelessness is essential to ensure durable solutions, including local integration, resettlement, and voluntary return,

Responding to calls from persons with experience of forced displacement or statelessness across the world for a rightful place in decision-making processes that impact them,

We jointly declare:

Article 1 – The right to participate

1. **All persons with experience of forced displacement or statelessness have the right to participate in decisions that directly or indirectly affect their protection and human rights.**
2. **The rights listed in this Declaration apply to:**
 - a. refugees,
 - b. asylum seekers,
 - c. internally displaced persons,
 - d. trafficked persons,
 - e. other persons with experience of forced displacement, and
 - f. stateless persons.

Commentary

Why is this article important?

9. The principle of autonomy at the heart of international human rights law demands that everyone has the right to participate in decisions that affect their rights. Participation is an important precondition for human dignity and is necessary to fully enable the human rights of all persons. It also supports States and other decision-making authorities to make effective and sustainable decisions.
10. In the context of forced displacement and statelessness, the participation of persons directly affected by these situations can produce multiple benefits. On the one hand, meaningful participation can help improve the effectiveness and efficiency of responses. This is because displaced and stateless persons and communities often have intimate and direct knowledge of how their communities function, which rights they do not enjoy in practice and the reasons for this, what services are needed and where coping measures are already in place.² Drawing upon this knowledge and expertise can help ensure responses to protection are culturally appropriate, sustainable and reflective of displaced and stateless communities' own priorities and aspirations.
11. On the other hand, meaningful participation can also contribute to preserving and/or restoring the dignity of displaced and stateless persons and communities. It can promote their individual and collective agency, foster positive psychological attitudes and wellbeing, and improve connections to community. It can also build trust and legitimacy in decisions and institutions and address power imbalances between stakeholders.
12. Given the lived realities of displaced and stateless persons, these benefits are particularly important. Persons with experience of forced displacement or statelessness are often excluded or face significant challenges when seeking to participate in decisions that affect them. Those who are not citizens are commonly denied access to the political franchise in the communities in which they are based. Those who are displaced are often surrounded by an unfamiliar landscape, with limited opportunities and capacity to engage with those in power. Frequently, persons with

² See Will Jones, 'Refugee Voices' (2019) *World Refugee Council Research Paper* No 8, 3; also, The Brookings Institution–University of Bern Project on Internal Displacement, *Moving Beyond Rhetoric: Consultation and Participation with Populations Displaced by Conflict or Natural Disasters* (Overseas Development Institute, October 2008).

experience of forced displacement or statelessness also belong to minorities and face discrimination and other cultural barriers to participation.

The right to participate in international refugee and human rights law

13. Article 1 of this Declaration seeks to strengthen international human rights law and international protection by articulating an express right of persons with experience of forced displacement or statelessness to participate in decisions that directly or indirectly affect them. Under the current international law framework, displaced persons can assert a right to participate in some decisions, such as the right to determine whether they wish to voluntarily return,³ and the right to be included in the implementation of some socio-economic and cultural rights.⁴ Certain groups of displaced and stateless communities also benefit from alternative participatory rights frameworks by virtue of their intersectional identities and belonging to other rights regimes.⁵ However, the international law framework currently does not offer comprehensive and explicit coverage for the participation of persons with experience of forced displacement or statelessness in decisions that affect them, despite the particular vulnerabilities they may face.⁶
14. This gap in the international law framework creates both ambiguities and inconsistencies in practice. The Convention on the Rights of the Child, for example, provides that all children who are capable of forming their own views have the right to express those views freely in all matters affecting them (article 12(1)). This right to be heard encompasses children with experience of forced displacement and statelessness, as the article applies to ‘every human being below the age of eighteen years’ (article 1). These views are to be given due weight in accordance with the age and maturity of the child, with the idea that these views will increasingly be considered as the child

³ See Convention relating to the Status of Refugees (adopted 28 July 1951, entered into force 22 April 1954) 189 UNTS 137 (1951 Refugee Convention) art 1C; Statute of the Office of the United Nations High Commissioner for Refugees, (14 December 1950) UN Doc A/RES/428(V) ch 1, [1], ch 2, [8(c)]; Guiding Principles on Internal Displacement (11 February 1998) UN Doc E/CN.4/1998/53/Add.2, principle 28.2. For further analysis of this participatory right with respect to refugees, see Tristan Harley, *Beyond Storytelling: Refugee Participation in Decision-making Processes* (DPhil thesis, University of NSW 2022) 112–19 <<https://doi.org/10.26190/unsworks/24210>>.

⁴ See, for examples, United Nations Committee on Economic, Cultural and Social Rights (UNECOSOC), ‘General Comment No. 14: The Right to the Highest Attainable Standard of Health’ (11 August 2000) UN Doc E/C.12/2000/4 [43(f)]; ‘General Comment No. 18: Article 6 of the International Covenant on Economic, Social and Cultural Rights’ (6 February 2006) UN Doc E/C.12/GC/18 [31(c)]; ‘General Comment No. 21: Right of Everyone to Take Part in Cultural Life’ (21 December 2009) UN Doc E/C.12/GC/21 [55(e)]; ‘General Comment No. 22 on the Right to Sexual and Reproductive Health’ (2 May 2016) UN Doc E/C.12/GC/22 [49(b)].

⁵ These frameworks include, *inter alia*, the Declaration on the Right to Development (adopted 4 December 1986) UNGA Res 41/128; Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3; Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (adopted 9 December 1998) UNGA Res 53/144 (Declaration on Human Rights Defenders); Convention on the Rights of Persons with Disabilities (adopted 13 December 2006, entered into force 3 May 2008) UNGA Res 61/106, UN Doc A/RES/61/106; United Nations Declaration on the Rights of Indigenous Peoples (adopted 13 September 2007) UNGA Res 61/295.

⁶ For more detailed analysis, see Tristan Harley and Harry Hobbs, ‘The Meaningful Participation of Refugees in Decision-Making Processes: Questions of Law and Policy’ (2020) 32(2) *International Journal of Refugee Law* 200.

ages and matures. However, once a displaced or stateless child turns eighteen, this right appears to diminish rather than grow, as there is no corresponding express right for displaced and stateless adults to be heard in international refugee and human rights law.

15. Likewise, article 4(3) of the Convention on the Rights of Persons with Disabilities requires States Parties to ‘closely consult with and actively involve persons with disabilities, including children with disabilities, through their representative organizations’ in the development and implementation of legislation and policies. These obligations apply to all displaced and stateless persons with disabilities, in accordance with the requirements of equality and non-discrimination (article 5). Yet, there is similarly no corresponding express obligation to consult with displaced or stateless persons *without* disabilities.⁷
16. In recent years, there has been increasing recognition of the centrality of voice within the context of international human rights law. The United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Irene Khan, suggested in 2023 that:

Voice is a fundamental attribute of the right to freedom of expression and, combined with access to information, gives individuals and communities the agency to shape the conditions affecting their lives and to demand accountability. Voice in that context is the right to share information and ideas, express diverse views, participate in decision-making processes, criticize government and corporate policies and practices, and expose wrongdoing without fear.⁸

This interpretation highlights how participatory rights can be derived from, and are consistent with, interconnected civil and political rights. However, it does not necessarily ensure that States and other decision-making authorities will listen or engage in meaningful dialogue.⁹

‘All persons with experience of forced displacement or statelessness’

17. When interpreting article 1 of this Declaration, an important consideration is clarifying and crystallising who benefits from the right. In the context of forced displacement and statelessness, this has particular challenges due to the existence of multiple categories of claimants, numerous international frameworks and distinct approaches across international and regional human rights regimes.
18. As a pragmatic approach within this diverse legal landscape, this Declaration lists the persons who have a right to participate under this Declaration in article 1(2), and considers *persons with experience of forced displacement or statelessness* as persons or groups of persons who have been displaced from their homes or places of habitual residence, either internally or across an international border, in particular as a result of or in order to avoid the effects of persecution, armed conflict, violations of human rights, situations of generalised violence or the adverse impacts of

⁷ There are also explicit rights to participation for Indigenous peoples and women under international human rights law.

⁸ *Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression: Sustainable Development and Freedom of Expression: Why Voice Matters*, Irene Khan, UN Doc A/HRC/53/25 (19 April 2023) [51].

⁹ See *Nam v Korea*, United Nations Human Rights Committee, UN Doc CCPR/C/78/D/693/1996 (29 August 2003) but note the significant dissenting view on this point.

climate change or disasters;¹⁰ it also includes all persons who are stateless, whether or not they are in their country of habitual residence.

19. This definition is intended to be inclusive and broadly covers persons or groups of persons protected by existing legal frameworks, such as refugees as defined under the 1951 Refugee Convention and its 1967 Protocol, stateless persons under the 1954 Convention relating to the Status of Stateless Persons¹¹, as well as others entitled to international protection under other international and regional legal frameworks, including human rights law, custom and general principles of law.¹² The Declaration also covers, but is not limited to, those persons experiencing internal displacement and trafficking, in accordance with the terms found in the Guiding Principles on Internal Displacement.¹³ and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.¹⁴
20. Reference to ‘all persons’ in article 1 of this Declaration highlights that States and other decision-making authorities cannot be selective or partial in their engagement with persons with experience of forced displacement and statelessness. This is consistent with the principle of non-discrimination found in international refugee and human rights law. This principle is further elaborated in articles 2 and 4 of this Declaration.
21. Further, article 1 places emphasis on enabling participation for those ‘with experience of’ forced displacement or statelessness. This approach highlights that the State and decision-makers must engage with those who have been displaced or stateless in the past, as well as with those who are currently experiencing displacement or statelessness.
22. At times, it may also be necessary to engage with those who are sufficiently connected to displaced and stateless persons, such as family members. For example, in the context of statelessness, those with experience of statelessness includes persons who have stateless family members, particularly those who care for them or those dependent on them.
23. It is important to recall that the impacts of displacement and statelessness are individual and unique. They do not always come to an end simply with the resolution of a particular legal status,

¹⁰ Referencing the Guiding Principles on Internal Displacement (n 3), *Introduction & Scope*, [2].

¹¹ Convention relating to the Status of Stateless Persons (opened for signature 28 September 1954, entered into force 6 June 1960) 360 UNTS 117.

¹² 1951 Refugee Convention (n 3) – note that refugees returning their country of nationality are still treated by UNHCR as refugees until they have a durable and sustainable solution. See also Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa (adopted 10 September 1969, entered into force 20 June 1974) 1001 UNTS 45 Art 1(2); Cartagena Declaration on Refugees (adopted by the Colloquium on the International Protection of Refugees in Central America, Mexico and Panama, 22 November 1984) in *Annual Report of the Inter-American Commission on Human Rights* (1984–85) OAS Doc OEA/Ser.L/V/II.66/doc.10, rev 1, 190–93; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (adopted 10 December 1984, entered into force 26 June 1987) 1465 UNTS 85; International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR); Convention on the Elimination of All Forms of Discrimination against Women (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13; See also UNHCR, ‘Guidelines on International Protection No. 12 on Armed Conflict and Violence’, HCR/GIP/12 (6 December 2016); and UNHCR, *Legal Considerations regarding Claims for International Protection made in the context of the Adverse Effects of Climate Change and Disasters* (1 October 2020).

¹³ Guiding Principles on Internal Displacement (n 3).

¹⁴ Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (opened for signature 12 December 2000, entered into force 25 December 2003) 2237 UNTS 319.

such as the provision of permanent residence or citizenship. Indeed, in many cases the experiences and impacts of forced displacement and statelessness extend beyond this time, as affected communities continue to experience ruptures from families, communities and cultures and ongoing impacts on their wellbeing and livelihoods.

24. This Declaration proposes that approaches to inclusion should be interpreted and applied broadly. If States and other decision-making authorities do not grant a person or community the right to participate, they must provide compelling reasons as to why.

‘All decisions that directly or indirectly affect their protection and human rights’

25. A second important consideration when determining the scope of article 1 is identifying the decisions that specifically activate the right to participate. This Declaration suggests that the relevant threshold should be ‘all decisions that directly or indirectly affect their protection and human rights’.
26. This threshold seeks to balance the significance of the decisions for persons with experience of forced displacement or statelessness with the resourcing burdens placed on States and other decision-making authorities for guaranteeing the right to participate. It also seeks to ensure that the right to participate for persons with experience of forced displacement or statelessness is balanced with the participatory rights that are accorded to citizens, while recognising that at times differentiated approaches may be needed to address asymmetries in application.
27. To assist with the interpretation of this threshold, this Declaration suggests that ‘decisions that directly or indirectly affect’ the protection and human rights of displaced or stateless persons could be either:
- a) decisions specifically directed towards the protection and human rights of displaced or stateless persons, or
 - b) decisions of a general application which differently affect the protection and human rights of displaced or stateless persons.
28. While this Declaration does not aim to be prescriptive about the types of decisions that will activate the right to participate, in practice it is likely that the right to participate will be engaged in any decision related to services and programmes for displaced and stateless communities, or any decision related to the movement of displaced and stateless persons within or across borders, whether through repatriation, resettlement or other pathways.¹⁵ Additionally, it could include any decisions relating to solutions and the regularisation of status, the end of protection status or legislative decisions such as on health policy, housing policy or justice. In many situations, it could also apply to those seeking information, accountability and justice for family members who have faced violence, incarceration or forced disappearance in their home country or subsequent to displacement.
29. When considering access to the political franchise, it is important to recall that refugees and other displaced persons do not lose their nationality simply by seeking asylum across an international

¹⁵ This accords with several approaches already established. For example, the Inter-Agency Standing Committee (IASC) Framework on Durable Solutions for Internally Displaced Persons insists on the ‘participation of Internally Displaced Persons in the planning and management of durable solutions’. See IASC, ‘Framework on Durable Solutions for Internally Displaced Persons’ (The Brookings Institution, 2010) 19–22.

border. As such, the right of citizens to take part in public affairs (article 25 ICCPR) would extend to refugees and other displaced citizens in relation to transitional justice processes and other forms of consultation, as well as elections and referendums in their country of nationality.¹⁶

The importance of individual and collective participation

30. Participation in decision-making processes can be realised through both individual and collective forms. Individual participation is important to allow persons to express their own views, preferences and needs in relation to decisions that affect them as individuals and as members of families. This approach is closely tethered to core philosophical bases for human rights, which lie in the enhancement of individual autonomy, and is especially critical in decisions which directly or indirectly affect persons as individuals. For example, in the context of decisions relating to the return of refugees to their country of origin, the Executive Committee 101 (LV) Conclusion on Legal Safety Issues in the Context of Voluntary Repatriation of Refugees 2004 highlights ‘the voluntary character of refugee repatriation, which involves the individual making a free and informed choice’ about whether to repatriate.¹⁷ Likewise, in the context of refugee status determination procedures, the right of the applicant to be heard in the process is considered a core principle of procedural fairness.
31. Collective (or group-based) participation is needed when decisions affect groups of refugees and/or others experiencing forced displacement or statelessness. In decisions affecting groups, collective participation can help facilitate transparency and consensus-building and ameliorate some of the power imbalances between decision-makers and participants through strength in numbers. It also plays a role in addressing practical resource restraints in decision-making processes. In other words, when more people are affected by a decision, the less likely it is that participants can directly participate in decision-making processes and the more likely it is that they must delegate to others and rely on collective forms of participation.¹⁸

Types of collective participation

32. In comparison with other approaches in international human rights law, which have placed emphasis on collective participation through chosen representatives and representative institutions,¹⁹ this Declaration deliberately avoids prescribing the types or modes of collective participation needed to give effect to the right of persons with experience of forced displacement or statelessness to participate collectively.
33. This approach has been taken to enable flexibility in practice and because not all forms of collective participation – such as surveys, e-voting processes and popular assemblies – require representatives to be selected. These forms of collective participation may be particularly suitable in emergency situations where there is a need for decisions to be made urgently and representative communities are not yet fully established. Additionally, new technologies and new proposals for

¹⁶ See Geoff Gilbert, *Political Participation of Refugees in Their Country of Nationality*, UNHCR Research Paper Series No. 38 (November 2018) <<https://www.refworld.org/reference/lpprs/unhcr/2018/en/122358>>.

¹⁷ United Nations General Assembly, *Report of the Fifty-Fifth Session of the Executive Committee of the High Commissioner's Programme, Conclusion on Legal Safety Issues in the Context of Voluntary Repatriation of Refugees*, UN Doc A/AC.96/1003 (12 October 2004) [23].

¹⁸ Robert A Dahl, *On Democracy* (Yale University Press, 1998) 105–10.

¹⁹ See UN Declaration on the Rights of Indigenous Peoples (n 5) arts 18–19.

participatory processes are also increasingly available to help overcome barriers that have previously existed in relation to large-scale, collective forms of participation.²⁰

34. Notwithstanding this approach, this Declaration recognises that representative participation is a common and important form of collective participation. In recent years, there has been significant growth in the number of representative bodies of displaced stateless people in all levels of governance. This growth has included the formation of numerous networks and organisations led by displaced and stateless persons across the world, as well as the establishment of many advisory boards consisting of displaced and stateless persons.²¹ There has also been increasing recognition of the importance of displaced and stateless-led organisations in the design and delivery of protection responses.²²
35. In contexts where representative approaches to participation are utilised, the decision-maker must ensure that representatives adequately represent persons with experience of forced displacement or statelessness. Freedom of association suggests that persons with experience of forced displacement or statelessness should have the autonomy to determine their own representatives in accordance with their own procedures. This is consistent with other approaches that have been taken in international human rights law, such as those developed with respect to Indigenous communities and persons with disabilities.²³
36. At the same time, this needs to be balanced with the right to non-discrimination in international human rights law, ensuring that diverse segments of the community have a say and that the dynamic and intersectional experiences and identities of participants are taken into account. In most cases, it will not be sufficient to simply consult with community leaders or the same community members known to decision-makers without giving consideration to intersectionality and diversity.²⁴

Balancing individual and collective participation

37. Decision-making processes often work effectively when they combine both individual and collective forms of participation. For instance, persons with experience of forced displacement or statelessness should have the opportunity to participate collectively in the design of status determination procedures to ensure that they are accessible and appropriate for their purposes. However, procedural fairness requires that it is individuals directly affected by a specific decision who should have the opportunity to present their individual claim within these procedures.
38. Likewise, in the contexts of resettlement, complementary pathways and service delivery, individuals should have a say in whether they accept these opportunities for themselves, but there should also be opportunities for collective participation to assist in the design and implementation

²⁰ See Gilbert (n 16).

²¹ See James Milner, Mustafa Alio and Rez Gardi, 'Meaningful Refugee Participation: An Emerging Norm in the Global Refugee Regime' (2022) 41(2) *Refugee Survey Quarterly* 565.

²² See UNHCR, 'Definition: Refugee-led Organization (RLO)' (UNHCR, January 2023) <<https://www.refworld.org/policy/legalguidance/unhcr/2023/en/89475>>; also, Kate Pincock, Alexander Betts and Evan Easton-Calabria, *The Global Governed? Refugees as Providers of Protection and Assistance* (Cambridge University Press, 2020).

²³ UN Declaration on the Rights of Indigenous Peoples (n 5), art 18; Convention on the Rights of Persons with Disabilities (n 5) art 4(3).

²⁴ For more, see International Law Association, *Participation in Cultural Heritage Governance at the Global Level: Final Report* (Report of the Eightieth Conference held in Lisbon, 19 June–24 June 2022) [74].

of these opportunities and determining how resources should be allocated. For example, in Ukraine, councils comprised of internally displaced persons frequently operate as consultative bodies to local authorities, ensuring that the voices of displaced people inform public policy and local decision-making.²⁵

39. While the combination of individual and collective forms of participation can often produce synergistic effects, they can also produce divergences or disagreements between the views of individuals and groups of displaced and stateless persons. This is entirely anticipated and appropriate given that true democratic processes will produce a plurality of views.
40. In situations where there is divergence or disagreement between the views of individuals and groups of displaced or stateless persons, States and other decision-making authorities should consider whether these divergent views can all be addressed within the decision, and if not, which views should be given greater weight in the context of the decision in accordance with other relevant legal requirements. It is important that non-discrimination and vulnerability be considered in assigning weight to different views. The decision-maker should also document how these differing views were each considered in accordance with article 2(d) of this Declaration.

²⁵ See McGill, UNHRSP, UNHCR and IPEG, *Strengthening the Participation of IDPs: Workshop Report* (UNHCR, April 2025) <<https://www.unhcr.org/sites/default/files/2025-04/unhcr-mcgill-workshop-report-english.pdf>>.

Article 2 – Good-faith and non-discrimination

States and other decision-making authorities shall ensure that the right to participate set out in Article 1 is implemented in good faith and without discrimination, including by

- a) establishing clear and accessible mechanisms and procedures;
- b) engaging persons with experience of forced displacement or statelessness from the outset, including accepting and responding to communications from them;
- c) ensuring that decisions take into account the expertise, experience and information that persons with experience of forced displacement or statelessness contribute through their participation; and
- d) providing reasons for the decision/s made and demonstrating and documenting how the contributions of persons with experience of forced displacement or statelessness were considered.

Commentary

Why is this article important?

41. Whereas article 1 of this Declaration aims to enhance international refugee and human rights law by elaborating the right to participate for persons with experience of forced displacement or statelessness, article 2 aims to create a corresponding obligation on States and other decision-making authorities to guarantee the effectiveness of that right. This is important as it ensures that participation is meaningful and not simply a ‘tick box’ exercise or a tool used to either suppress dissent or justify decisions made without consideration of the views of persons with experience of forced displacement or statelessness.

‘States and other decision-making authorities’

42. International refugee and human rights law recognises that while States retain primary responsibility for providing protection to displaced and stateless communities, effective responses to displacement and statelessness require actions to be taken from a diverse number of stakeholders. This is often considered as either a ‘multi-stakeholder and partnership approach’ to displacement and statelessness or a ‘whole-of-society approach’.²⁶
43. In accordance with this recognition, this Declaration applies to States at every level of governance, and to all branches of government.²⁷ It also applies to other decision-making authorities in relation to decisions impacting persons with experience of forced displacement or statelessness. For the purpose of this Declaration, other decision-making authorities include:
- a) international and intergovernmental organisations

²⁶ *Report of the United Nations High Commissioner for Refugees, Part II: Global Compact on Refugees*, UNGA Res 73/12 (Part II), UN GAOR, 73rd sess Supp No 12, UN Doc A/73/12 (Part II) (17 December 2018) (Global Compact on Refugees) [33]; Global Compact for Safe, Orderly and Regular Migration, UN Doc A/RES/73/195 (11 January 2019, adopted 19 December 2018) [14].

²⁷ This approach is consistent with other approaches taken in international human rights law. See United Nations Human Rights Committee (UNHRC), General Comment No. 31: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant’ (26 May 2004) UN Doc CCPR/C/21/Rev.1/Add.13 [4].

- b) civil society organisations with mandates to address, advocate or respond to forced displacement or statelessness
- c) donors, private sector and philanthropic institutions in their relations with persons with experience of forced displacement or statelessness, and
- d) all other actors responsible for decisions relating to persons with experience of forced displacement or statelessness.

‘Good faith’

- 44. Article 2 of this Declaration articulates that the obligation on States and other decision-making authorities to guarantee the right to participate for persons with experience of forced displacement or statelessness must be implemented in accordance with the principle of good faith. Paragraphs a–d clarify this obligation by establishing a non-exhaustive series of minimum standards required to ensure and respect this right.
- 45. The principle of good faith is well-established in international law. This principle requires, among other things, that all stakeholders act honestly and refrain from taking unfair advantage of other parties.²⁸ It also requires that consultative mechanisms ‘embrace transparency, mutual respect, meaningful dialogue and a sincere desire to reach consensus’.²⁹ There is a strong correlation between the implementation of the legal principle of good faith and the more common proposition in responses to displacement and statelessness that participation be ‘meaningful’.³⁰
- 46. An important element of good faith is that the provisions of this Declaration should be interpreted: in a manner that protects persons experiencing forced displacement or statelessness. As the Inter-American Commission on Human Rights has stated:

[w]here two or more provisions are applicable to a particular case or situation, States are obligated to use the most favorable provision to protect the rights of all migrants, regardless of their migration status. Likewise, where there are two or more interpretations of a provision, States are obligated to use the most favorable to the person, offering the broadest protection. In addition, States should apply the most favorable interpretation to guarantee human rights, and the most restrictive interpretation to impose limits on those rights.³¹

‘Non-discrimination’

- 47. Alongside the principle of good faith, this Declaration requires that States and other decision-making authorities ensure that the right to participate for persons with experience of forced displacement or statelessness is implemented without discrimination. This approach is consistent with calls from displaced and stateless leaders across the world, who emphasise the need to

²⁸ See Markus Kotzur, ‘Good Faith (Bona Fide)’ in *Max Planck Encyclopedia of Public International Law* (Oxford University Press, 2009) [20].

²⁹ *Report of the Special Rapporteur on the Rights of Persons with Disabilities*, UN Doc A/HRC/31/62 (12 January 2016) [79].

³⁰ See Refugees Seeking Equal Access at the Table (R-SEAT), *We Were Seen, but Were We Heard?* – *Meaningful Refugee Participation at the Global Refugee Forum 2023: An Assessment By R-Seat* (R-SEAT, July 2024) 3.

³¹ This is known as the *pro persona* principle. See Inter-American Commission on Human Rights, *Inter-American Principles on the Human Rights of All Migrants, Refugees, Stateless Persons and Victims of Human Trafficking*, Res 04/19 (2019) principle 3.

consider the unique identities, needs and diverse backgrounds of persons with experience of forced displacement or statelessness in decision-making processes that affect them.³²

48. This approach is also coherent with the architecture of international refugee and human rights law, where rights are commonly applied in accordance with the principle of non-discrimination. Article 2(1) of the International Covenant on Civil and Political Rights, for instance, provides that each State party must respect and ensure all rights recognised in the Covenant ‘to all individuals within its territory and subject to its jurisdiction’ and ‘without distinction of any kind’. This includes many rights that are interconnected with participation in decision-making, such as the rights of all persons to privacy, freedom of opinion, expression, association and peaceful assembly.
49. Articles imposing non-discrimination obligations can also be found in the International Covenant on Economic, Social and Cultural Rights (article 2(2)), the 1951 Refugee Convention (article 3), the Convention Relating to the Status of Stateless Persons (article 3), the Convention on the Rights of the Child (article 2), and the Convention of the Rights of Persons with Disabilities (article 4), among others. The Guiding Principles on Internal Displacement also provide that internally displaced persons ‘shall not be discriminated against in the enjoyment of any rights and freedoms on the ground that they are internally displaced’ (principle 1).
50. The principle of non-discrimination incorporates the principle of gender equality and acknowledges the importance of meaningful participation and leadership of women and girls. The principle is established under the International Covenant on Civil and Political Rights (article 3) and the International Covenant on Economic, Social and Cultural Rights (article 3). The principle is at the core of the Convention on the Elimination of All Forms of Discrimination against Women (article 2(a) and throughout) which specifically requires equality with regard to participation (articles 7 & 14(2)(a)). The principle is established in the Global Compact on Refugees in paragraphs 74 and 75. It should be noted that women with experience of forced displacement or statelessness often face compounded vulnerabilities and barriers to participation. Participation should aim for gender equality in representation and may require mechanisms to ensure the effective participation of women and girls.
51. Under the Declaration, participatory processes must be conducted in a way that does not discriminate against persons with experience of forced displacement or statelessness on the basis of their migration or nationality status, but also on the basis of ‘race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status’.³³ Non-discrimination therefore applies not just to ensure equal treatment between persons experiencing forced displacement or statelessness and others, but also to protect specific marginalised groups by reference to age, gender and diversity criteria and more broadly and inclusively within displaced and stateless communities. Women, children and members of minorities can face cultural stigma, insecurity, and limited mobility. The principle of non-discrimination applies to every element of the participatory process, including those listed in paragraphs a–d of this article.
52. For the purposes of interpretation and implementation, the requirement for non-discrimination imposes both a negative duty on States and decision-making authorities to refrain from

³² UNHCR Advisory Board of Organizations led by Forcibly Displaced and Stateless Persons, *Joint Refugee Statement at the Global Refugee Forum 2023* (UNHCR, December 2023) <<https://www.unhcr.org/media/joint-refugee-statement-grf2023>>.

³³ ICCPR (n 12) art 2(1).

discriminatory conduct, and also a positive duty to take steps to proactively remove barriers that participants may experience in engaging in decision-making processes about them. The United Nations Human Rights Committee has stated that non-discrimination ‘sometimes requires States parties to take affirmative action in order to diminish or eliminate conditions which cause or help to perpetuate discrimination’.³⁴ This positive duty is elaborated in article 4 of this Declaration.

‘Establishing clear and accessible mechanisms and procedures’

53. The State and other decision-making bodies have a positive obligation to establish mechanisms and procedures to realise meaningful participation. There are numerous forms of participatory process that can be established, including consultations, summits, appointing representatives to boards, participatory research and assemblies. The Declaration does not mandate the form of participation, but it must be clear and accessible and abide by the principles outlined in this Declaration, including, in particular, the principles of good faith and non-discrimination.

‘Engaging persons with experience of forced displacement or statelessness from the outset’

54. The obligations of the State or decision-making authority deriving from this Declaration commence from the outset, that is, from the earliest stages of planning and design. This requirement responds to the practice in which authorities develop proposals in advance and subsequently present them to persons with experience of forced displacement or statelessness for comment or post-hoc endorsement. This means that the State or decision-making authority must commence the participatory process before decisions have been made, and as soon as it becomes clear that a decision will be made that is likely to affect persons with experience of forced displacement or statelessness. Establishing standing representative bodies of forcibly displaced and stateless persons to be consulted from the very start could facilitate this process.
55. Furthermore, the State or other decision-making authority must consider that the principles listed in this Declaration apply to any communication from a person or group who has a right to participate. This is important to ensure that participation may be initiated not only by decision-makers, but also by persons with experience of forced displacement or statelessness.

‘Ensuring that decisions take into account the expertise, experience and information’

56. In accordance with good faith and meaningful participation, articles 2(c) –(d) of this Declaration emphasise that it is insufficient for States and other decision-making authorities to simply listen to the views of persons with experience of forced displacement or statelessness. Rather, the State or other decision-making authority must consider the contributions of participants in making their decisions. In doing so, it is important that the contributions of participants are not viewed merely as opinions that may be ignored. The expertise, experience and information provided by the participants, including their preferences with regard to strategy, available resources, short- and long-term goals, and priorities, constitutes information that may have an impact on the subsequent legal obligations of the State or other decision-making authority. For a decision-making process to

³⁴ UNHRC, ‘General Comment No. 18: Non-discrimination’ (1994) UN Doc HRI/GEN/1/Rev.1 26 [10].

be genuinely developed in good faith, there needs to be the possibility that the decision-making authority reaches an outcome that it may not initially favour.³⁵

57. The consideration of the contributions of participants must abide by the principle of non-discrimination and ensure that the contributions of marginalised individuals or groups amongst the participants are not being ignored. Moreover, it should be recognised that the ‘expertise, experience and information’ brought by persons with experience of forced displacement or statelessness are distinct from the expertise, experience and information that can be contributed by other actors. These contributions cannot effectively or rightfully be brought to decision-making processes by other actors, as experience has shown that proxy participation results in the presentation of these perspectives through the interests or priorities of those actors, however well-intended they may be.

‘Providing reasons’

58. States and decision-making authorities must demonstrate that they have properly considered the contributions of displaced and stateless persons and communicate the extent to which these have influenced the outcome of the decision/s. The presentation of reasons contributes to the principle of accountability, elaborated in article 5 of this Declaration. The State or decision-making authority must provide a clear account of the contributions made and how these were considered in making the decision, bearing in mind their impact on legal obligations and the principle of non-discrimination.
59. This information should be provided in a manner in keeping with the principle of non-discrimination and access to information as outlined in article 3. The information must be in a form that can be understood by the persons with experience of forced displacement or statelessness that are affected by the decision in question, bearing in mind the diverse needs of participants.

³⁵ Tristan Harley, Suyeon Lee and Najeeba Wazefadost, ‘Not Just a Seat at the Table: Refugee Participation and the Importance of Listening’ (2022) 70 *Forced Migration Review* 20, 28.

Article 3 – Access to information

1. All persons with experience of forced displacement or statelessness have the right to seek, receive and impart information to facilitate their right to participate.
2. States and other decision-making authorities shall provide this information in a timely, accessible and comprehensive manner through appropriate formats, languages and technologies.

Commentary

‘The right to seek, receive and impart information’

60. International human rights law already recognises that all persons, including those experiencing displacement or statelessness, have the right to seek, receive and impart information ‘of all kinds’, including across borders. This right is considered an essential component of the right to freedom of expression under article 19(2) of the International Covenant on Civil Political Rights.³⁶ It is also considered a right ‘that gives meaning to the right to participate’ and ‘a right in and of itself’.³⁷ Article 3 of this Declaration therefore is consistent with existing international refugee and human rights law as it applies to persons with experience of forced displacement or statelessness.
61. At a practical level, the right to seek, receive and impart information is a necessary element of participatory processes because access to information is crucial for considered judgement, accountability and informed consent. Informed consent is an ethical and legal obligation that involves prospective participants having access to sufficient, accurate and relevant information to be able to voluntarily agree to participate in a decision-making process, whether individually or collectively.
62. In the design of participatory processes, it is critical that States and other decision-making authorities provide prospective participants with accurate information that addresses the following:
 - a) the decision/s under consideration;
 - b) the authority or authorities responsible for making the decision/s, as well as any other authorities involved;
 - c) the procedure foreseen or in place for making the decision/s, including dates, locations and timeframes, including how affected persons can participate;
 - d) the support available to participants, including interpreting and/or translation services and legal and psychosocial support;
 - e) any foreseen risks to participants and the steps taken to address those risks, and any alternative forms of participation;
 - f) whether any information has been withheld and the justification/s for withholding that information;

³⁶ ICCPR (n 12) art 19(2); *Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, Mr. Frank La Rue* UN Doc A/68/362 (4 September 2013) [18].

³⁷ *Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, Mr. Abid Hussain, submitted in accordance with Commission Resolution 1999/36* (18 January 2000) UN Doc E/CN.4/2000/63 [42].

- g) information as to how participation can affect the decision/s; and
- h) any other information relevant to making the decision/s.

Information in a ‘timely, accessible and comprehensive manner’

63. As article 3(2) of this Declaration details, States and other decision-making authorities should provide this information in a ‘timely, accessible and comprehensive manner’. This requires informing persons with experience of forced displacement or statelessness from the outset of the decision-making process and providing reasonable timeframes for all participants to provide input into that process. In decisions that directly or indirectly affect groups of persons, these timeframes need to be sufficient to address the additional resourcing burdens of collective participation, which can involve, *inter alia*, the time and resourcing necessary to select representatives, undertake democratic deliberation within groups and prepare joint submissions. It is also necessary that States and other decision-making authorities provide information on an ongoing basis throughout the decision-making process.
64. It is an unfortunate reality that States and other decision-making authorities have often fallen short in ensuring the timely provision of information necessary to enable the meaningful participation of displaced and stateless communities in decision-making processes. During the development of this Declaration, contributors repeatedly recalled experiences where persons with experience of forced displacement or statelessness had been given insufficient time to arrange travel for in-person events or to facilitate consultation with hard-to-reach persons or groups, such as those in detention or experiencing ongoing protection risks in host communities. Contributors also noted experiences where they had been provided with partial access to information or as a one-time occurrence, without sustained flow of information throughout the decision-making processes. These shortcomings have undermined trust in these decision-making processes and have impacted the quality of these processes.
65. Information must also be provided in an accessible manner. Accessibility requires that information is both physically and financially accessible to participants. Any cost involved in accessing information ‘should not be so high as to deter potential applicants and negate the intent of the law itself’.³⁸ In participatory processes involving persons with experience of forced displacement or statelessness, it is likely that a no-cost approach will be most suitable to providing access to information. Information should be in ‘appropriate formats, languages and technologies’ as indicated in the final clause of this article, and under the principle of non-discrimination, there should be no further cost for accessing information in an alternative form necessitated by language, disability or other factor.

‘Appropriate formats, languages and technologies’

66. This Declaration emphasises the need for information to be provided in ‘appropriate formats, languages and technologies’. This is critical to ensure that participatory processes are implemented inclusively and without discrimination. For displaced and stateless persons, this requirement is

³⁸ *ibid* [44].

particularly important given the significant linguistic and cultural diversity of displaced and stateless communities, as well as the frequent barriers these communities experience engaging in participatory processes.

67. At a practical level, States and other decision-making authorities may need to adjust their regular approaches to public engagement in decision-making to address these considerations. These adjustments could involve using a variety of communication formats, such as print, digital, audio and visual, to accommodate varying degrees of literacy. They could also entail providing translations of written content, using interpreters and bilingual facilitators, writing in plain language, completing readability testing, and using infographics, icons and illustrations.³⁹
68. These requirements are consistent with existing international human rights law standards, which already recognise the need for rights holders to receive information through accessible means. Article 19(2) of the International Covenant on Civil Political Rights provides that everyone has the right to seek, receive and impart information ‘either orally, in writing or in print, in the form of art, or through any other media of his choice’. This language is mirrored with respect to children in article 13(1) of the Convention on the Rights of the Child.
69. The Convention on the Rights of Persons with Disabilities also provides greater detail with regard to the application of this right for persons with disabilities, adding that States parties shall provide ‘information intended for the general public to persons with disabilities in accessible formats and technologies appropriate to different kinds of disabilities in a timely manner and without additional cost’ (article 21(a)). It goes on to add that States shall facilitate ‘the use of sign languages, Braille, augmentative and alternative communication, and all other accessible means, modes and formats of communication of their choice by persons with disabilities in official interactions’ (article 21(b)).

Restrictions on the right to seek and receive information

70. International human rights law provides for specific restrictions on the right to seek and receive information. The classic exposition is set out in article 19(3) of the International Covenant on Civil and Political Rights and article 13(2) of the Convention on the Rights of the Child. While not including this text in article 3 of the Declaration, States and other decision-makers can draw from the substantive guidance on those existing restrictions. This approach also recognises that it would be neither desirable nor practical to establish distinct legal thresholds exclusively for persons with experience of forced displacement or statelessness.
71. The United Nations Human Rights Committee, along with the United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, have previously considered in some detail the application of limitations on the right to access information.⁴⁰ These

³⁹ For a good practice example that highlights a range of adaptations that can be applied, see NSW Government, ‘NSW Settlement Strategy: Refugee Lived Experience Framework’ (November 2024).

<<https://multicultural.nsw.gov.au/wp-content/uploads/2025/01/Refugee-Lived-Experience-Framework-November-2024.pdf>> 17; see also COVID-19 Global Evaluation Coalition, ‘Joint Evaluation of the Protection of the Rights of Refugees during the Pandemic’ (2022) 32 <<https://www.unhcr.org/media/es-2022-06-joint-evaluation-protection-rights-refugees-during-covid-19-pandemic>>.

⁴⁰ See UNHRC, ‘General Comment No. 34: Article 19: Freedoms of Opinion and Expression’ (12 September 2011) UN Doc CCPR/C/GC/34; Report of the Special Rapporteur 37(n 36) [48]–[69].

authorities emphasise that '[r]estrictions must be defined by law that is accessible, concrete, clear and unambiguous, and compatible with the State's international human rights obligations. They must also strictly conform to tests of necessity and proportionality'.⁴¹ Additionally:

For a restriction to be necessary, it must be based on one of the grounds for limitations recognized by the International Covenant on Civil and Political Rights and address a pressing public or social need. Any restriction must also be proportionate to the aim invoked and must not be more restrictive than is required for the achievement of the desired purpose or protected right.⁴²

72. The Global Principles on National Security and the Right to Information (known as the Tshwane Principles) also highlight that '[t]he burden of demonstrating the legitimacy of any restriction rests with the public authority seeking to withhold information' and that '[t]he right to information should be interpreted and applied broadly, and any restrictions should be interpreted narrowly'.⁴³
73. For instance, while the protection of national security is listed as a permissible reason to limit the right to access information under international human rights law, States and other decision-making authorities need to provide specific information on the precise nature of the risk of harm to national security, and the necessity for and proportionality of such a restriction on access to information.⁴⁴ Any restriction on the ground of national security can only be applied where 'the whole nation is at stake, which would thereby exclude restrictions in the sole interest of a Government, regime or power group'.⁴⁵ Further, there must be a real connection between those affected by the decision and the risk to national security,⁴⁶ and any restriction applied 'must be the least intrusive among the measures that might achieve the relevant protective function'.⁴⁷ States and other decision-makers cannot simply seek to protect the decision-maker from exposure of wrongdoing,⁴⁸ nor can they broadly or vaguely claim that any issues involving persons with experience of forced displacement or statelessness are a matter of national security.

⁴¹ *Report of the Special Rapporteur* (n 36) [51].

⁴² *ibid* [52].

⁴³ Open Society Justice Initiative, *The Global Principles on National Security and the Right to Information (known as the Tshwane Principles)* (Open Society Foundations, 12 June 2013) 16 <<https://www.justiceinitiative.org/uploads/bd50b729-d427-4fbb-8da2-1943ef2a3423/global-principles-national-security-10232013.pdf>>. These principles were developed through a two-year process that involved consulting more than 500 experts from more than 70 countries around the world.

⁴⁴ *Report of the Special Rapporteur* (n 36) [61].

⁴⁵ *Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, Mr. David Kaye* UN Doc A/71/373 (6 September 2016) [18]. See also Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights (1985) 7 *Human Rights Quarterly* 3, 6.

⁴⁶ For examples of domestic jurisprudence relating to the interpretation of national security, see *Refugee Consortium of Kenya v AG Kenya* [2015] eKLR [71]–[72], citing *Kituo Cha Sheria v Attorney-General Kenya* [2013] eKLR, Petition Nos. 19 and 115 of 2013; see also *Home Secretary v Rehman* [2003] 1 AC 153 [16].

⁴⁷ *Dobrotvor v Belarus*, UNHRC, UN Doc CCPR/C/131/D/2622/2015 (24 February 2022) [7.5].

⁴⁸ *Report of the Special Rapporteur* (n 37) [44].

Article 4 – Supporting and Resourcing Participation

1. **States and other decision-making authorities have a duty to support and resource participatory procedures and mechanisms to enable all persons with experience of forced displacement or statelessness the full enjoyment of their right to participate.**
2. **This duty involves:**
 - a. **ensuring support to individual participants and participant groups;**
 - b. **taking proactive steps to facilitate the participation of individuals and groups who face discrimination, considering the diverse, dynamic and intersectional experiences and identities of participants; and**
 - c. **implementing all available measures to prevent threats and risks to the personal and digital security of individual participants and participant groups.**

Commentary

Why is this article important?

74. Ensuring appropriate support and resourcing is integral to the fulfillment of the right to participate. Too often persons with experience of forced displacement or statelessness are invited to participate in decision-making processes without effective resourcing and support. Further, organisations led by persons experiencing forced displacement or statelessness are often criticised for not adequately representing their communities, but they are not supported to properly establish representative mechanisms within their communities. It should be noted that participation in practice is mostly unpaid and can involve considerable personal cost to participants.
75. Calls to appropriately support and resource participatory mechanisms are widespread among displaced and stateless communities across the world. The Global Refugee-led Network has highlighted that meaningful participation requires participatory mechanisms to be ‘ethical, sustained, safe, and supported financially’.⁴⁹ It notes that ‘[t]he meaningful work of refugee-led initiatives is acutely underfunded’ and ‘special attention should be paid to providing financing for refugee advocates and refugee-led initiatives to participate in discussions and carry out refugee response work generally’.⁵⁰ Similarly, R-SEAT (Refugees Seeking Equal Access at the Table) has emphasised the importance of providing appropriate support for participants in decision-making mechanisms, noting the importance of compensation in some contexts.⁵¹
76. Consistent with these proposals, article 4 of this Declaration acknowledges that if participatory mechanisms are to transcend tokenism, they must be appropriately resourced and address the practical barriers that persons with experience of forced displacement or statelessness face in exercising their right to participate. Adequate support and resourcing of both participatory mechanisms and those that seek to access them will bring reciprocal benefits for decision-makers and participants alike. It will also enhance the quality and effectiveness of decisions made.

⁴⁹ Global Refugee-led Network, ‘Meaningful Refugee Participation as Transformative Leadership: Guidelines for Concrete Action’ (Asylum Access, December 2019) 7
<https://globalcompactrefugees.org/sites/default/files/2021-12/GRN%20Meaningful-Refugee-Participation-Guidelines_Web.pdf>.

⁵⁰ *ibid* 21.

⁵¹ R-SEAT (n 30).

Conversely, '[p]articipation on the cheap is likely to be of a poor standard and will be detrimental to democratic practice'.⁵²

Types and independence of support

77. Article 4 of this Declaration is articulated broadly to facilitate diverse forms of support. It is likely that appropriate support will include the provision of financial, legal, linguistic, logistical and technical assistance. It may involve capacity development, outreach activities and funding support for organisations led by persons with experience of forced displacement or statelessness. Ultimately however, what type of support, and the level of support required, will be specific to the context of both the decision being made and the needs of participants. Legal support can be particularly important for participants. Persons with experience of forced displacement or statelessness require access to legal information, advice and support throughout the process.
78. When determining the appropriateness of resourcing and support, States and other decision-making authorities should consult with persons with experience of forced displacement or statelessness and consider the scale and diversity of individuals and groups impacted by the decision, the nature of the likely impact on participants, the types of processes envisaged, the speed at which the decision/s need to be made and the resources available.
79. In the provision of resourcing and support, States and other decision-making authorities should also respect and ensure the independence and autonomy of participants and not use the availability of resources as a tool to exert pressure or influence the views of persons with experience of forced displacement or statelessness. Withholding, or threatening to withhold, resources to participants who may express views that differ from those favoured by the decision-making authority would not be acting in accordance with the principle of good faith under this Declaration.

'taking proactive steps to facilitate the participation of individuals and groups who face discrimination'

80. As discussed earlier in this commentary, the principle of non-discrimination outlined in article 2 requires States and other decision-making authorities to refrain from discriminatory conduct. This component is crucial to counter exclusionary and prejudicial practices and serves to equalise or level the playing field among participants whose protection or human rights are directly or disproportionately impacted by the decision/s at hand.
81. Article 4(2)(b) builds upon article 2 of this Declaration by imposing a duty on States and other decision-making authorities to take positive measures to address the barriers that different participants face, so that they can participate with other persons with experience of forced displacement or statelessness on an 'equal footing'.⁵³

⁵² Graeme Smith, *Democratic Innovations: Designing Institutions for Citizen Participation* (Cambridge University Press, 2009) 19.

⁵³ The language of equal footing has been used in various international human rights law instruments. See for example: International Convention on the Elimination of All Forms of Racial Discrimination (adopted 21 December 1965, entered into force 4 January 1969) 660 UNTS 195 (International Convention on the Elimination of All Forms of Racial Discrimination) art 1; Convention on the Elimination of All Forms of Discrimination against Women (n 12) art 1; Convention on the Rights of Persons with Disabilities (n 5) art 2.

82. In drafting this article, contributors placed emphasis on substantive equality (which acknowledges the need for differential treatment) rather than formal equality (which proposes that everyone is treated identically irrespective of their circumstances). This distinction and its rationale are captured succinctly in Aristotle's formula: 'treat likes alike, and different things differently to the extent of the inequality'.⁵⁴
83. This approach is also consistent with international human rights law, which recognises the necessity of differential treatment and affirmative action in accordance with the principle of non-discrimination. For instance, the United Nations Committee on the Elimination of All Forms of Racial Discrimination has indicated that:

The term 'non-discrimination' does not signify the necessity of uniform treatment when there are significant differences in situation between one person or group and another, or, in other words, if there is an objective and reasonable justification for differential treatment. To treat in an equal manner persons or groups whose situations are objectively different will constitute discrimination in effect, as will the unequal treatment of persons whose situations are objectively the same.⁵⁵

84. Likewise, the United Nations Committee on the Rights of the Child has noted that 'barriers to participation are faced by particularly marginalized and/or discriminated groups' and '[a]ddressing these barriers is especially relevant for child protection'.⁵⁶

Types of proactive steps

85. Just as with the types of support offered broadly to participants, this Declaration does not prescribe specific steps that States and other decision-making authorities must take to facilitate the participation of individuals and groups who face discrimination. Instead, the scope of proactive steps envisaged under article 4(2)(b) is broad enough to encompass all action needed to accommodate the diverse, dynamic and intersectional experiences and identities of participants.
86. This approach requires considerations of intersectionality and how the multiple parts of a person's identity, such as their race, gender, sexuality, residence status, age, education and socio-economic status, can intersect and produce unique and overlapping barriers to participation. These barriers are often connected to the reasons why people are displaced and/or stateless. However, they also can be compounded by unique challenges experienced in places of refuge, such as a lack of host language proficiency, new forms of discrimination and a limited awareness of local political systems and cultures.
87. In addressing these diverse and dynamic barriers, States and other decision-making authorities should consult with prospective participants and take action as soon as needs are identified (either

⁵⁴ This distinction, and the reference to Aristotle, are discussed in Kristin Henrard, 'Equality of Individuals' in *Max Planck Encyclopedia of Public International Law* (Oxford University Press, May 2008) [1].

⁵⁵ United Nations Committee on the Elimination of All Forms of Racial Discrimination, 'General Recommendation No. 32: The Meaning and Scope of Special Measures in the International Convention on the Elimination of All Forms Racial Discrimination' UN Doc CERD/G/GC/32 (24 September 2009) [8].

⁵⁶ United Nations Committee on the Rights of the Child, 'General Comment No. 13: The Right of the Child to Freedom from All Forms of Violence' UN Doc CRC/C/GC/13 (18 April 2011) [63].

by decision-makers or participants). It is likely that decision-making authorities will need to facilitate a variety of ways for people to participate. Some types of proactive steps include:

- a) offering flexibility in timings to accommodate work, education and religious requirements;
- b) providing opportunities for online participation;
- c) providing training, resources and safe spaces to accommodate diverse groups;
- d) providing flexibility in the size of group-based engagements;
- e) offering flexibility in written and oral forms of engagement, including through the use of translators and other forms of knowledge sharing;
- f) utilising intermediaries, such as organisations and networks led by persons with experience of forced displacement or statelessness to reach participants and build trust,
- g) completing participant needs assessments prior to engagements;⁵⁷ and
- h) to the extent it effects affirmative action, providing specific and potentially separate opportunities for particularly marginalised groups within the population to participate.⁵⁸

88. Given that persons with experience of forced displacement or statelessness often face restrictions in terms of movement within and outside a State, States and other decision-making authorities should take proactive steps to remove barriers; enable safe, orderly and regular, movement; and/or facilitate alternative means of participation. States should also guarantee that those taking part in participatory mechanisms can travel as needed without affecting their residence status or any of their other entitlements or rights.

Article 4(2)(c): Prevention of threats and risks to personal and digital security

89. The final element listed in article 4 highlights the need for States and other decision-making authorities to ‘implement all available measures to prevent threats and risks to the personal and digital security of individual participants and participant groups’. Risks may arise merely through persons taking part in public processes, but there may also be deliberate intimidation of participants intended to affect the outcome. States must also refrain from obstructing the work of legal representatives and advisors.
90. This duty is important because persons with experience of forced displacement or statelessness may experience significant risks to their personal and digital security when participating in decision-making processes that affect them. These risks range from violence, including gender and sexual violence, impacts on their health and wellbeing, through to forced departure and physical harm.⁵⁹ Refugee women and girls and marginalised groups in post-conflict situations face additional challenges to participation, including concerns about security, mental and physical health, and economic and property rights. The duty to prevent threats and risks is also consistent with the humanitarian principle of ‘do no harm’.

⁵⁷ Several of these types of accommodations are modelled in NSW Government (n 39) 17.

⁵⁸ Nicholas McMurry, *Participation and Democratic Innovation under International Human Rights Law* (Routledge, 2023) 186–88.

⁵⁹ Karen Jacobsen and Loren B Landau, ‘The Dual Imperative in Refugee Research: Some Methodological and Ethical Considerations in Social Science Research on Forced Migration’ (2003) 27(3) *Disasters* 185, 193 cited in *Guidelines for Co-Produced Research with Refugees and Other People with Lived Experience of Displacement* (May 2023) <<http://doi.org/10.26190/ghnc-sy80>>.

91. Without being exhaustive – and in addition to the proactive steps listed above – some of the specific measures States and other decision-making authorities can take to implement preventative protections measures for participants include:
- a) carrying out risk assessments and developing appropriate risk-mitigation strategies;
 - b) ensuring safe spaces for participation through the use of privacy and confidentiality policies and procedures;
 - c) implementing robust data protection measures;
 - d) providing options for anonymous, small group and de-identified participation; and
 - e) conducting wellbeing check-ins with participants.
92. In implementing measures such as these, it is important to note that when persons with experience of forced displacement or statelessness participate in decision-making processes as a means ‘to promote, protect or strive for the protection and realization of human rights and fundamental freedoms’, they are acting as human rights defenders and should equally be protected under this framework.⁶⁰ Article 4(2)(c) of this Declaration accordingly closely aligns with the principles and rights articulated in the human rights defender regime, most specifically in article 12 of the United Nations Declaration on Human Rights Defenders.
93. Further, while it is critical that States and other decision-making authorities take all available measures to prevent threats to personal and digital security, this does not necessarily mean that participation will be risk-free. Persons with experience of forced displacement or statelessness often make free and informed decisions to participate in decision-making processes, even when risks to themselves and their communities persist. It would be contrary to the rights set out in this Declaration for States and other decision-making authorities to deny access to participants on the basis that their safety cannot be secured.

⁶⁰ United Nations Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (9 December 1998, adopted 8 March 1999) UN Doc A/RES/53/144; See also Harley and Hobbs (n 6) 220.

Article 5 – The Right to a Remedy and Accountability

1. **Persons with experience of forced displacement or statelessness have a right to a remedy where States and other decision-making authorities fail to meet their obligations set out in this Declaration.**
2. **States and other decision-making authorities shall provide for fair, effective and timely accountability mechanisms for addressing breaches and receiving and responding to complaints or feedback relating to the rights set out in this Declaration.**

Commentary

Why is this article important?

94. Article 5 of this Declaration emphasises the need for a right to a remedy and an effective accountability framework to address situations where States and other decision-making authorities fail to provide for meaningful participation. Accountability requires States and other decision-making authorities to take appropriate measures to uphold the rights and principles set out in this Declaration, prevent acts or omissions that fail to respect these rights and principles, and ensure effective remedies in response to such acts or omissions when they occur, including by providing reparation.⁶¹ States and other decision-making authorities must ensure respect for the articles set out in this Declaration by incorporating them into their domestic laws or regulations, as well as administrative practices. The right to a remedy ensures that where the principles outlined in this Declaration are not met, persons with experience of forced displacement or statelessness have access to remedies such as restitution or compensation.

‘a right to a remedy’

95. Everyone has the right to a remedy when actions or omissions fail to fulfil the rights and principles set out in this Declaration. The right to a remedy entails a right to be heard with equal access to accountability mechanisms, notwithstanding that the actions or omissions may have been committed by a person acting in an official capacity.⁶² It also entails assurances that remedies and reparation are enforceable when granted.⁶³ Those affected by the breach are to be treated with compassion and respect.⁶⁴ In ensuring remedies and reparations, ‘the international community ... reaffirms the international legal principles of accountability, justice and the rule of law’.⁶⁵

⁶¹ ICCPR (n 12) art 2.

⁶² ICCPR (n 12) art 2(3); African Charter on Human and Peoples’ Rights (adopted 27 June 1981, entered into force 21 October 1986) (1982) 21 ILM 58, art 7(1).

⁶³ ICCPR (n 12) art 2(3)(c); See also American Convention on Human Rights (adopted 22 November 1969, entered into force 18 July 1978) 1144 UNTS 123 (Pact of San José) art 25.

⁶⁴ See, for example, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, UNGA Res 60/147 (2005) (Basic Principles), principle VI on ‘Treatment of victims’.

⁶⁵ *ibid*, preamble.

96. It is a general rule across legal systems, and a general principle of international law, that for every breach of a right there must be a remedy.⁶⁶ For example, provisions providing for a right to a remedy are found across many international legal instruments, including:

- Universal Declaration of Human Rights (article 8)⁶⁷
- International Covenant on Civil and Political Rights (article 2)
- International Convention on the Elimination of All Forms of Racial Discrimination (article 6)
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (article 14)
- Convention on the Rights of the Child (article 39)
- Guiding Principles on Internal Displacement (principle 7(3)(f))
- Hague Convention respecting the Laws and Customs of War on Land (article 3)⁶⁸
- Protocol Additional to the Geneva Conventions of 1949 (article 91)⁶⁹
- Rome Statute of the International Criminal Court (articles 75 and 93)⁷⁰
- African Charter on Human and Peoples' Rights (article 7)
- American Convention on Human Rights (article 25)
- European Convention on Human Rights and Fundamental Freedoms (article 13)⁷¹
- ASEAN Human Rights Declaration (article 5).⁷²

97. In this Declaration, the term remedy is used to refer to *procedures* that recognise a breach and respond to it. Remedies are generally identified in administrative law/practice, identified by courts, set out in legislation, established through organisational accountability mechanisms and/or utilised as a matter of custom or general principles.

98. Although the language and specifics may vary across jurisdictions and among different kinds of stakeholders, attempts have been made to systematise remedies and they often fall into similar categories.⁷³ This Declaration intends to capture this diversity and does not intend to bias a

⁶⁶ International Commission of Jurists, *The Right to a Remedy and Reparation for Gross Human Rights Violations: A Practitioners' Guide* (Practitioners Guide, 2018) < <https://www.icj.org/wp-content/uploads/2018/11/Universal-Right-to-a-Remedy-Publications-Reports-Practitioners-Guides-2018-ENG.pdf> >.

⁶⁷ Universal Declaration of Human Rights (adopted 10 December 1948) UNGA Res 217 A(III) (UDHR) art 8.

⁶⁸ Convention (IV) respecting the Laws and Customs of War on Land (adopted 18 October 1907, entered into force 26 January 1910) art 3.

⁶⁹ Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) (adopted 8 June 1977, entered into force 7 December 1978) 1125 UNTS 3 art 91.

⁷⁰ Rome Statute of the International Criminal Court (adopted 17 July 1998, entered into force 1 July 2002) 2187 UNTS 3, arts 75 and 93.

⁷¹ Convention for the Protection of Human Rights and Fundamental Freedoms (opened for signature 4 November 1950, entered into force 3 September 1953) 213 UNTS 221, art 13.

⁷² ASEAN Human Rights Declaration (adopted 18 November 2012) art 5.

⁷³ For example, in the Basic Principles (n 64), States are expected to ensure 'full and effective reparation ... which include the following forms: restitution, compensation, rehabilitation, satisfaction, and guarantees of non-

particular kind of legal system, and nor should the discussion be limited to courts and judicial review. Examples are provided in this commentary to provide clarity, but without the intention to suggest an exhaustive list of options.⁷⁴

99. Remedies answer the question ‘what should happen to the decision procedurally if a right is breached or responsibility is evaded in practice?’. Common remedies often fall into the following categories:⁷⁵

- a) the decision should be undone. The decision should be quashed/set-aside/cancelled, and that is enough;
- b) the decision should be cancelled, and then re-made correctly;
- c) where the authority refuses to make a decision that it is required to make, the authority should be ordered to make the decision in accordance with the requirements of law;
- d) the authority should be prevented from making a wrongful decision;
- e) the authority should be prevented from taking an action on the basis of the decision that was wrongfully made;
- f) a body should review the matter and declare that the action or decision was unlawful.

100. Reparations are sometimes understood as being encompassed in the notion of remedies, but are sometimes considered as distinct. The United Nations Human Rights Committee has stated that the obligation to provide an effective remedy includes the obligation to make reparation, which can include measures like restitution, compensation, rehabilitation, changes in laws and practices, guarantees of non-repetition and so on.⁷⁶ For the purposes of this Declaration, the provision of reparations is embedded within the right to a remedy and is used to describe how the consequences/costs suffered by the persons subject to the decision are to be addressed once the damage has been done. Aside from how the decision will be dealt with procedurally, reparations consider how the consequences suffered by those subject to the decision will be compensated.

repetition’. Furthermore, ‘[r]estitution includes, as appropriate: restoration of liberty, enjoyment of human rights, identity, family life and citizenship, return to one’s place of residence, restoration of employment and return of property ... [c]ompensation should be provided for any economically assessable damage ... [r]ehabilitation should include medical and psychological care as well as legal and social services ... [s]atisfaction should include ... cessation of continuing violations, verification of the facts and full and public disclosure of the truth to the extent that such disclosure does not cause further harm ... public apology ... [g]uarantees of non-repetition should include ... providing, on a priority and continued basis, ... education to all sectors of society and training ... strengthening the independence of the judiciary ... promoting the observance of codes of conduct and ethical norms ...’.

⁷⁴ Diverse forms of remedy exist and are set out in both international and domestic law. For example, article 39 of Convention on the Rights of the Child (n 5) requires that ‘States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim... in an environment which fosters the health, self-respect and dignity of the child’; and article 93 of the Rome Statute of the International Criminal Court (n 70) provides a non-exhaustive list of ‘[o]ther forms of cooperation’, including the conduct of investigations or prosecutions, disclosure of documents or evidence, protection of victims or witnesses, issuance of reports and expert opinions.

⁷⁵ In legal terms, the below remedies may be referred to as: certiorari, mandamus, prohibition, injunction, declaration, remand, etc.

⁷⁶ ‘General Comment No. 31’ (n 27) [16]–[17]. See also UNHRC, ‘Guidelines on Measures of Reparation under the Optional Protocol to the International Covenant on Civil and Political Rights’ (30 November 2016) UN Doc CCPR/C/158 (2016) [2].

101. Some common reparations to address the consequences of a breach include:⁷⁷

- a) the State or decision-making authority in breach may be expected to restore things to the way they were before the breach occurred;
- b) the State or decision-making authority in breach may be required to accept responsibility, issue a public apology, and/or issue an accurate accounting of what took place;
- c) the State or decision-making authority in breach may be required to take steps to provide some guarantee of non-repetition (for instance, through training responsible officials, issuance of regulations/guidelines, etc);
- d) financial damages may be given by way of compensation for the consequences suffered as a result of a violation; and
- e) the parties may be required to undertake a process of resolution and reconciliation.

102. While ‘remedies’ and ‘reparations’ may be thought of as formal legal terms, it is important to recognise that remedies and reparations can also describe much more informal and day-to-day practices for administrative agencies or smaller organisations managing complaints or feedback mechanisms and striving to ensure high standards of ethics, quality and accountability to affected persons. Transitional justice approaches to remedies and reparation are not as legalistic, prioritising restorative and community-based processes and focusing on the needs of victims, the broader social context, incorporating local conceptions of justice, addressing differential impact and ensuring broader participation of affected persons.⁷⁸

‘fair, effective, and timely accountability mechanisms’

103. Accountability is often assumed to be upward and hierarchical, meaning that an authority is answerable to a superior authority for the responsibilities assigned to it and for the budget allocated for its work. Accountability, however, also entails ground-up accountability to those subject to its decisions.⁷⁹ This latter form of accountability requires that a decision-making authority’s performance meets the needs and expectations of persons affected by its decisions, and that it respects the dignity and rights of such persons in good faith, as set out in article 2.⁸⁰

104. Recognition of the value and effectiveness of this ground-up accountability is reflected in the Global Compact on Refugees,⁸¹ the Grand Bargain,⁸² UNHCR policy⁸³ and broader international

⁷⁷ In legal terms, the below reparations may be described as: restitution, compensation, rehabilitation, satisfaction, etc.

⁷⁸ Guidance Note of the Secretary General, ‘Transitional Justice: A Strategic Tool for People, Prevention and Peace’ (October 2023) <https://www.ohchr.org/sites/default/files/documents/issues/transitionaljustice/sg-guidance-note/2023_07_guidance_note_transitional_justice_en.pdf>.

⁷⁹ CHS Alliance, Groupe URD and Sphere Association, ‘Core Humanitarian Standard on Quality and Accountability’ (2nd edn, 2024) <https://www.corehumanitarianstandard.org/_files/ugd/e57c40_f8ca250a7bd04282b4f2e4e810daf5fc.pdf>.

⁸⁰ See UNHCR, *Accountability to Affected People (AAP): Emergency Handbook* (19 April 2003) <<https://emergency.unhcr.org/protection/protection-principles/accountability-affected-people-aap>>.

⁸¹ Global Compact on Refugees (n 26) [34], [106].

⁸² IASC, ‘The Grand Bargain – A Shared Commitment to Better Serve People in Need, 2016’ (21 February 2017) <https://interagencystandingcommittee.org/sites/default/files/migrated/2017-02/grand_bargain_final_22_may_final-2_0.pdf>.

⁸³ See UNHCR (n 80).

human rights obligations. The balance of power between displaced or stateless persons and various authorities is not equal and is not on the side of the displaced or stateless person. Ground-up accountability can contribute to ameliorating this power imbalance.

105. Accountability takes many forms in practice, and a number of mechanisms and procedures ensure greater accountability to affected persons. Processes will vary depending on the nature, size and resources of the decision-making body. For example, an appeal process is the primary mechanism of accountability for adjudication (whether it is conducted by an administrative or judicial body). Other forms of accountability may include an ombudsman, complaints or feedback mechanisms and procedures, managerial methods of oversight and supervision, and methods for monitoring and evaluating decision-making bodies as a whole, for example through statistics, assessments of consistency and timeliness. None of these would be sufficient in isolation, but each may contribute to accountability overall.
106. Ensuring a right to a remedy generally requires access to an independent and impartial body that can assess the violation, cause the violation to cease if it is ongoing, and ensure adequate remedy and reparation. States and other decision-making authorities should establish fair, effective and timely accountability mechanisms through which they can listen and respond to complaints and feedback from refugees and other forcibly displaced or stateless persons, ensuring reparation and redress.
107. There is wide-ranging scepticism among displaced and stateless persons relating to complaints and feedback mechanisms, and the real-world barriers to challenging decisions or processes. When these processes are inaccessible or do not result in listening or meaningful impact, or when participation is not conducted in good faith, it erodes trust and confidence, and in the end has a silencing effect. Accountability mechanisms should be developed with the meaningful participation of displaced and stateless persons with consideration of the local context and involvement of all relevant stakeholders through a whole-of-society approach. Once established, States and other decision-making authorities should ensure that mechanisms and procedures are implemented in good faith and should strive to continually learn from experience and improve performance, maintaining high standards of quality and accountability.
108. These mechanisms should have clear objectives, emphasising the right to raise a complaint and to receive a response. They should set out clear procedures, with multiple points of access that cater to the needs and situations of participants, such as options for verbal complaints or feedback for those who are not literate, or interpretation facilities for those who do not speak or write the local language/s. Such mechanisms should ensure safety and accessibility, including assurances of confidentiality and non-retaliation towards those who utilise the procedure. Means to notify persons affected by decisions of these mechanisms and procedures also need to be put in place and in multiple formats.
109. States and other decision-making authorities should also ensure appropriate training about principles, standards and rights, and the use and implementation of accountability mechanisms and procedures. Performance of States and other decision-making authorities should be measured according to the principles, standards and rights set out in this Declaration and their accountability framework.

110. Effective accountability mechanisms share a number of qualities, such as accessibility, independence, impartiality, transparency, integrity, efficiency, adaptability and fairness.⁸⁴ Such qualities are common among the mechanisms of States and other decision-making authorities which generally utilise such standards as institutional or system goals, and they are also used to monitor and evaluate quality in implementation.
111. Accessibility entails physical access, but also the elimination of obstacles and provision of assistance and support, as needed.⁸⁵ Accountability mechanisms generally must provide a level of independence in order to ensure that they enable objective, good-faith decisions, proactively address conflicts of interest, and are free from external influences, inducements, pressures, threats or interference. Impartiality involves the ability to perform duties without favour, bias or prejudice, and mechanisms with integrity uphold high standards of ethical and professional conduct and are committed to preventing and addressing corruption and misconduct. Independence may sometimes involve the identification of external parties to manage the accountability process.
112. While accountability mechanisms generally need to guarantee confidentiality and data protection, they also must facilitate transparency with regard to their procedures, operating openly and without a hidden agenda. Efficiency and timeliness require that remedies and reparations are given adequate priority and that resources are sufficient to ensure that matters are resolved without undue delay. Adaptability is important so that procedures can be context-specific and adjusted in response to needs, vulnerabilities and risks that arise among those who utilise the mechanism. Fairness is generally an umbrella term that encompasses all of the above characteristics, as well as others.

⁸⁴ Core Humanitarian Standard on Quality and Accountability (n 79). See also Brian Barbour, *Asylum Capacity Development: Building New and Strengthening Existing Systems* (Kaldor Centre Policy Brief, September 2023).

⁸⁵ See article 4 and its commentary.