



Recognition of Foreign Passports

Argentina • Australia • Brazil • Canada • China
France • Georgia • Germany • Iraq • Israel • Italy
Japan • Jordan • Mexico • Nicaragua • South Africa
Sweden • Turkey • United Kingdom • United States

International law

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Report for Congress

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Comparative Summary

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This report covers the recognition of foreign passports and issuance of passports or other travel documents to foreigners in 20 selected jurisdictions around the globe, namely **Argentina, Australia, Brazil, Canada, China, France, Germany, Georgia, Iraq, Israel, Italy, Japan, Jordan, Mexico, Nicaragua, South Africa, Sweden, Turkey, United Kingdom**, and the **United States**. The **United States** is included for comparative purposes and for the general information of our readers. In addition, the report includes a section on **international law** pertaining to the right to leave and re-enter one's home country, as well as international obligations to issue travel documents to refugees and stateless persons.

As a general rule, the jurisdictions surveyed recognize passports issued by authorities in countries recognized as sovereign states or with which they otherwise have diplomatic relations.

In addition, most jurisdictions surveyed have rules regarding what passports may be recognized, including requirements that the passport or travel document include biometric and personal data. Certain jurisdictions have also issued lists of recognized passports, or lists of non-recognized passports. For example, **Australia** has issued a list of non-recognized passports, including passports issued by Abkhazia and South Ossetia, whereas **Sweden** has listed passports that are recognized despite not otherwise meeting the conditions for recognition, including certain Yemeni and Iranian passports.

Most countries only recognize passports issued by governments that they have recognized as sovereign states. For example, **Georgia** does not recognize Kosovo or passports issued by the Kosovo government, and **Iraq** does not recognize Israel or Israeli passports. Nevertheless, several jurisdictions surveyed recognize passports issued by governments representing areas that the surveyed nation does not recognize as a nation state. In particular, the recognition of Palestinian Authority-issued passports is widespread, despite several countries not recognizing Palestine as a sovereign state. Countries that recognize passports issued by the Palestinian Authority but do not recognize Palestine as a state include **Australia, Canada, France, Germany**, and the **United Kingdom**. Similarly, passports issued by Taiwan, Macau, and Hong Kong are widely accepted. For example, **Japan** recognizes passports issued by authorities from specifically designated regions such as Taiwan.

Other jurisdictions recognize particular states without recognizing passports issued by their governments. For example, **Italy** recognizes Kosovo as a sovereign state but does not recognize passports issued by the Kosovo government. **Nicaragua** recognizes passports from Sahrawi Arab Democratic Republic, which it qualifies as: "a partially recognized de facto sovereign state." **Nicaragua** also recognizes South Ossetia and Abkhazia and its passports. Similarly, **Turkey** recognizes the Turkish Republic of Northern Cyprus (TRNC) and its passports, while **Australia, Germany**, and the **United Kingdom** specifically do not recognize the same. No country surveyed recognizes passports issued by the Islamic State of Iraq and Syria (ISIS), and some countries specifically did not recognize any passport issued from the occupied areas of Al-Anbar or Mosul.

Recognition of Foreign Passports: Comparative Summary

Other explicitly non-recognized passports include certain Iraqi, Syrian, Somali, and Yemeni passports. For example, **Germany** specifically does not recognize Syrian passports issued in the Deir ez-Zor, Raqqa, Hasakah, and al-Haskeh regions.

Several jurisdictions surveyed include land that is the subject of regional disputes over territory, including **China, Georgia, Iraq, and Israel**. The government of these jurisdictions issue travel documents for persons living in disputed areas that may or may not be recognized by the other surveyed jurisdictions.

Some jurisdictions surveyed, including **Argentina** and **Sweden**, report that the government or a government agency may recognize an otherwise non-recognized travel document if deemed in the humanitarian interest to do so.

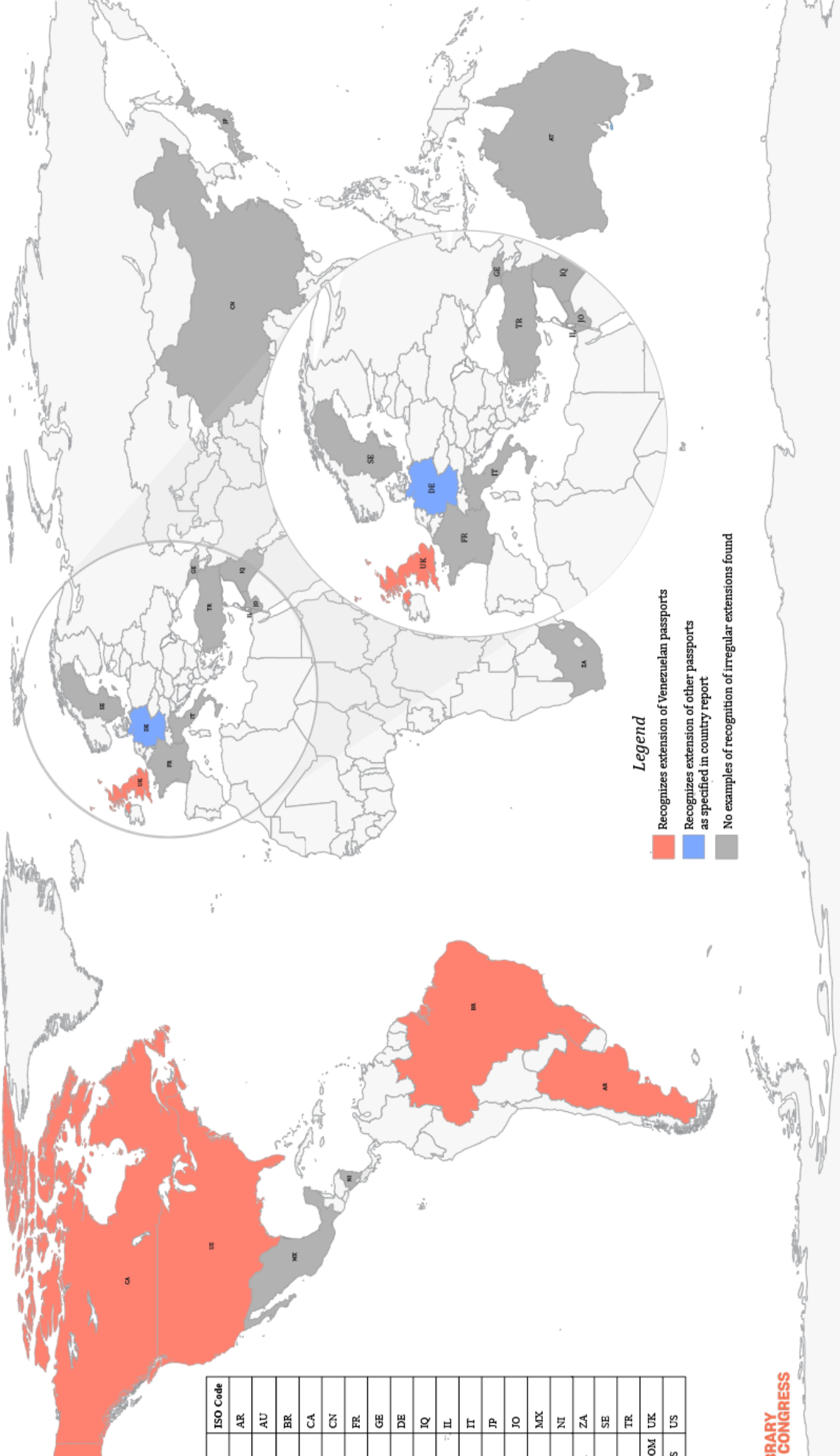
Several countries surveyed specifically recognize the automatic extension of the Venezuelan passport granted by the Venezuelan government in 2019, specifically **Canada, Argentina, Brazil, Canada, the United Kingdom, and the United States**. However, for a majority of the countries surveyed, information pertaining to recognition of irregular passport extensions could not be located. One country, **Germany**, has recognized the irregular extension of Yemeni passports.

Most jurisdictions surveyed are party to the 1951 Conventions Relating to the Status of Refugees and the 1954 Convention Relating to the Status of Stateless Persons. Signatory jurisdictions are under an international obligation to issue travel documents to refugees and stateless persons. Most jurisdictions surveyed have rules in place for issuing travel documents to refugees. All countries surveyed, except **China** and the **United States**, were also found to issue travel documents to stateless persons within their territory. **Jordan** and **Iraq** only issue such documents to stateless Palestinians and Palestinian refugees. In addition, several countries, including **Brazil, Germany, Italy, Sweden, and the United Kingdom**, issue travel documents to persons present in their country and seeking asylum during the application process, under special circumstances.

A majority of jurisdictions surveyed issue some form of travel document to at least one “other” category of persons, such as permanent residents, guest workers, persons unable to receive a travel document for force majeure reasons, persons under duress, persons who must travel to their home country to apply for a passport, etc. Specifically **Argentina, Australia, Brazil, Canada, France, Germany, Israel, Japan, South Africa, Sweden, Turkey, and the United Kingdom** may all issue travel documents to at least one group of foreigners that do not qualify as refugees, stateless persons, or asylum seekers.

Travel documents issued to foreigners may differ in validity and travel restrictions. For example, persons who are seeking or have been awarded protected status for being persecuted by the government of their home country will typically be restricted from traveling to that country using the travel document issued by the country awarding said protection. Travel documents issued in response to an emergency or force majeure are typically only valid for one trip.

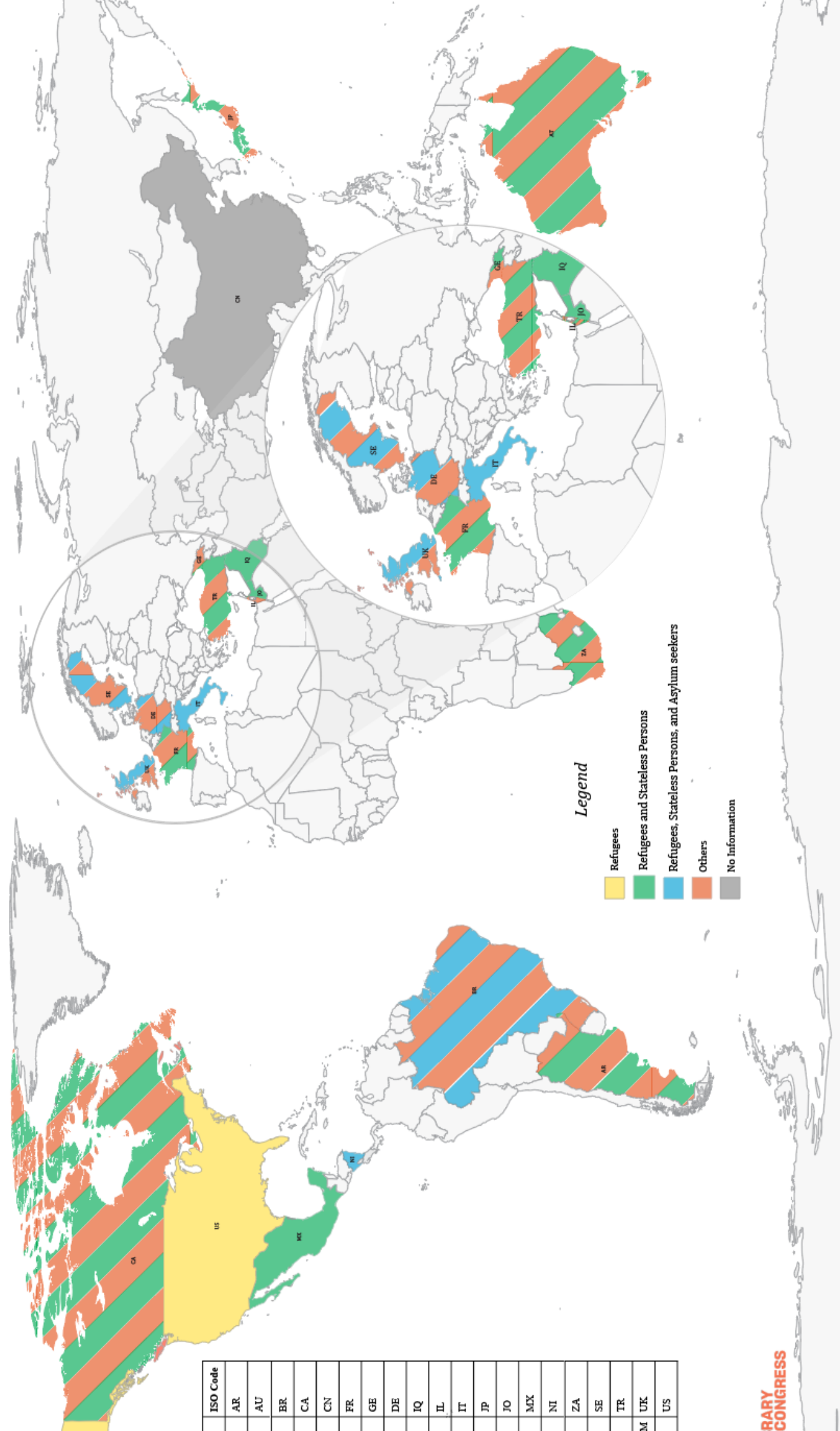
Recognition of Irregular Passport Extensions



ISO Code
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Government Issuance of Travel Documents to Foreigners



International Law

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SUMMARY From an international human rights law perspective, an individual has the right to leave any country, including his or her own, and to return to his or her country, with certain limitations. The United Nations Human Rights Committee has provided extensive guidance on the scope of this right. Further, states parties to the Refugee Convention and the Stateless Persons Convention should provide travel documents when appropriate. Finally, the International Civil Aviation Authority provides guidance for states to administer emergency travel documents in distressed or unpredicted situations.

I. Introduction

The right to leave one's country is enshrined in several widely ratified international human rights treaties, as well as in Article 13 of the Universal Declaration of Human Rights.¹ The relevant international treaties include:

- Article 12 of the International Covenant on Civil and Political Rights (ICCPR);²
- Article 8 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICPMW);³
- Article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination;⁴ and
- Article 10 of the Convention on the Rights of the Child;⁵

The United Nations General Assembly and the United Nations High Commissioner for Refugees (UNHCR) have also reaffirmed "the right of everyone to leave any country, including his or her own, and to return to his or her own country as well as the obligation of States to receive back

¹ Universal Declaration of Human Rights, art. 13, G.A. Res. 217 A (III), U.N. Doc. A/RES/217(III) (Dec. 10, 1948), <https://perma.cc/PSA2-EK45>. There are also a significant number of regional treaties regarding freedom of movement, such as article 12 of the African Charter on Human and People's Rights, <https://perma.cc/RN6V-VPWV>, and article 22 of the American Convention on Human Rights, <https://perma.cc/9VZA-PCE2>.

² International Covenant on Civil and Political Rights (ICCPR), art. 12, 999 U.N.T.S. 171 (Dec. 16, 1966), <https://perma.cc/4VVJ-DF6N>.

³ International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICPMW), art. 8, G.A. Res. 45/158 (18 Dec. 1990), <https://perma.cc/W8X2-EXTJ>.

⁴ International Convention on the Elimination of All Forms of Racial Discrimination, art. 5, G.A. Res. 2106 (XX) (21 Dec. 1965), <https://perma.cc/YKA6-GEXX>.

⁵ Convention on the Rights of the Child, art. 10, G.A. Res. 44/25 (20 Nov. 1989), <https://perma.cc/3CH7-LL3Q>.

their own nationals, including the facilitation thereof.”⁶ In addition, the Human Rights Committee (HRC) has had several opportunities to clarify the right to leave, including in General Comment No. 27 regarding Article 12 of the ICCPR,⁷ and through its case law discussed below.

In addition to the international human rights treaties providing for a right to leave, two treaties specifically aim to provide travel documents to those who may be at risk of losing their nationality, citizenship, and/or ability to travel:

- Article 28 of the Refugee Convention⁸
- Article 28 of the Stateless Persons Convention⁹

Finally, the International Civil Aviation Authority (ICAO) issues guidance on emergency travel documents for travelers in distressed or unpredicted situations.

II. ICCPR Article 12¹⁰

Article 12 of the ICCPR provides:

1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.
2. Everyone shall be free to leave any country, including his own.
3. The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.
4. No one shall be arbitrarily deprived of the right to enter his own country.

The HRC has provided detailed principles to states regarding freedom of movement in General Comment No. 27 (1999). As Article 12 is not one of the non-derogable rights of the ICCPR, Article 12(3) allows states to restrict the right to leave when the restriction is (1) provided by law, (2)

⁶ Declaration on the Human Rights of Individuals Who are Not Nationals of the Country in Which They Live, art. 5, G.A. Res. 40/144 (Dec. 13, 1985), <https://perma.cc/FSE5-JSN3>; U.N.H.C.R., Executive Committee, Conclusion on the Return of Persons Found Not to Be in Need of International Protection, Doc. No. 96 (LIV) (2003), <https://perma.cc/8WSF-JC4Q>.

⁷ UN Human Rights Committee (HRC), CCPR General Comment No. 27: Article 12 (Freedom of Movement), 2 November 1999, CCPR/C/21/Rev.1/Add.9, <https://perma.cc/NW27-BHA3>.

⁸ Convention Relating to the Status of Refugees, 189 U.N.T.S. 137 (July 28, 1951) (Refugee Convention), <https://perma.cc/MT36-QXU3>.

⁹ Convention Relating to the Status of Stateless Persons, 360 U.N.T.S. 117 (Sept. 28, 1954) (Stateless Persons Convention), <https://perma.cc/4AVW-FJJG>.

¹⁰ This section focuses on Article 12 of the ICCPR because the other applicable human rights treaties have either not directly dealt with the right to leave or do not have a treaty body-based complaint mechanism, although their subject matter has been addressed by the Human Rights Committee. See OHCHR, *23 Frequently Asked Questions about Treaty Body Complaints Procedures*, <https://perma.cc/QFU5-4XMH>.

necessary for the protection of the purposes listed, and (3) consistent with all other rights recognized in the Covenant.¹¹

Individuals who consider that their right to a travel document per Article 12 of the ICCPR has been violated can bring a complaint to the HRC, if the offending state has ratified the Optional Protocol to the ICCPR (First Optional Protocol).¹² Article 1 of the First Optional Protocol provides:

A State Party to the Covenant that becomes a Party to the present Protocol recognizes the competence of the Committee to receive and consider communications from individuals subject to its jurisdiction who claim to be victims of a violation by that State Party of any of the rights set forth in the Covenant. No communication shall be received by the Committee if it concerns a State Party to the Covenant which is not a Party to the present Protocol.

The HRC has found a violation of Article 12(2) ICCPR for (1) refusing a passport without justification,¹³ (2) the confiscation of a passport where a family member is accused of a political crime,¹⁴ and (3) when the restriction on travel is neither necessary nor proportionate.¹⁵

In its General Comment 15, the HRC has also held that ICCPR rights must be extended to “all individuals, regardless of nationality or statelessness, such as asylum seekers, refugees, migrant workers and other persons, who may find themselves under the territory or subject to the jurisdiction of the State Party.”¹⁶

III. Convention Travel Documents

The language of the 1951 Refugee Convention and the 1954 Stateless Persons Convention regarding providing travel documents to refugees and stateless persons is nearly identical.

¹¹ C. Harvey and R. P. Barnidge, Jr., *The Right to Leave One's Own Country Under International Law*, *Global Commission on International Migration* (2005), <https://perma.cc/8JD7-S92Y>.

¹² Optional Protocol to the International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 U.N.T.S. 171 (First Optional Protocol), <https://perma.cc/96ZY-2X76>. The First Optional Protocol has been ratified by 116 states.

¹³ Human Rights Committee Communication No. 1107/2002 (2004), <https://perma.cc/Z8VK-HMP2>.

¹⁴ Human Rights Committee Communication No. 1143/2002 (2007), <https://perma.cc/RBX2-PGPY>.

¹⁵ Human Rights Committee Communication No. 1585/2007 (2009), <https://perma.cc/FS23-CLHS>.

¹⁶ CCPR General Comment No. 15: The Position of Aliens Under the Covenant (1986), <https://perma.cc/U6QH-BQYA>.

A. 1951 Refugee Convention and 1967 Protocol¹⁷

Article 28 of the 1951 Refugee Convention¹⁸ provides:

The Contracting States shall issue to refugees lawfully staying in their territory travel documents for the purpose of travel outside their territory unless compelling reasons of national security or public order otherwise require, and the provisions of the Schedule to this Convention shall apply with respect to such documents. The Contracting States may issue such a travel document to any other refugee in their territory; they shall in particular give sympathetic consideration to the issue of such a travel document to refugees in their territory who are unable to obtain a travel document from the country of their lawful residence.

B. 1954 Stateless Persons Convention¹⁹

Article 28 of the 1954 Stateless Persons Convention provides:

The Contracting States shall issue to stateless persons lawfully staying in their territory travel documents for the purpose of travel outside their territory, unless compelling reasons of national security or public order otherwise require, and the provisions of the Schedule to this Convention shall apply with respect to such documents. The Contracting States may issue such a travel document to any other stateless person in their territory; they shall in particular give sympathetic consideration to the issue of such a travel document to stateless persons in their territory who are unable to obtain a travel document from the country of their lawful residence.

IV. International Civil Aviation Organization

The International Civil Aviation Organization (ICAO) is a specialized agency of the United Nations that is funded and directed by the 193 member states that are signatory to the Chicago Convention.²⁰ ICAO issues guidance material for use by Issuing Authorities of Emergency Travel Documents (ETDs) for “travellers needing to travel urgently in distressed or unpredicted situations where it is not possible to issue a standard full-validity passport.”²¹ These situations include emergency situations for the individual traveler, emergency situations abroad (e.g. a

¹⁷ Protocol Relating to the Status of Refugees, 606 U.N.T.S. 267 (Jan. 31, 1967),

<https://perma.cc/M9BK-C2JE>. The Protocol removed the temporal and geographic restrictions of the 1951 Refugee Convention. The United States, Venezuela and Cape Verde are parties to the Protocol but not the 1951 Refugee Convention.

¹⁸ For historical background, see *The Refugee Convention, 1951: The Travaux Préparatoires Analysed with a Commentary by Dr. Paul Weis* 152-195 (1990), <https://perma.cc/8KJ8-YQ2A>.

¹⁹ For commentary, see *UNHCR Handbook on Protection of Stateless Persons under the 1954 Convention Relating to the Status of Stateless Persons* (2014), <https://perma.cc/V2WZ-WYCY>.

²⁰ International Civil Aviation Organization (ICAO), *Convention on Civil Aviation (“Chicago Convention”)*, 7 December 1944, (1994) 15 U.N.T.S. 295, <https://perma.cc/XLN2-CU22>.

²¹ ICAO, *Doc 9303 Machine Readable Travel Documents, Part 8: Emergency Travel Documents* (pp. 370-391 of the PDF) (8th ed.), <https://perma.cc/K5DQ-229K>.

conflict or natural disaster) resulting in a need to travel home, or in cases of deportation, removal or repatriation. In these circumstances, the guidance provides an exemption for ETDs from the ICAO minimum standards for MRTDs.²² ICAO notes there are no global standards or recommended practices for the issuance of ETDs and that the International Committee of the Red Cross (ICRC) also supplies travel documents.²³ The ICRC travel documents are part of the provision of humanitarian aid, and are issued for one-way journeys as a last resort.²⁴ As of 2019, UNHCR noted that 26 percent of States Parties to the 1951 Refugee Convention and/or its Protocol do not issue any travel documents to refugees and 48 percent of States Parties to the 1954 Stateless Persons Convention do not issue any travel documents to stateless persons.²⁵

²² Id. (p. 377 of the PDF).

²³ Id.

²⁴ Id. See also UNHCR, *Guide for Issuing Machine Readable Convention Travel Documents for Refugees and Stateless Persons*, jointly published by UNHCR and the ICAO (2017), <https://perma.cc/L99K-5XHU>.

²⁵ UNHCR, *2019 Compliance Update: Machine-Readable Convention Travel Documents for Refugees and Stateless Persons*, <https://perma.cc/3J6Y-CCYV>.

Argentina

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SUMMARY There is no recognition by Argentina of passports issued by alternative governments. Expired passports have been recognized in specific and exceptional situations, for humanitarian or public interest reasons, for a limited time. Refugees and stateless persons can be issued travel documents and passports.

I. Introduction

The National Directorate of Migration within the Ministry of Interior is the authority in charge of enforcing and granting immigration status in the country.¹ The National Commission on Refugees, also within the Ministry of Interior, is in charge of the processing and granting of protections associated with refugee status, statelessness, and other humanitarian grounds.² The National Registry of Persons of the Ministry of Interior is the authority that issues passports and travel documents.³

II. Recognition of Passports Issued by Alternative Governments

The government's list of requirements to enter the country does not provide any information on the recognition of alternative passports issued by a government of an area affected by issues of proclaimed independence, sovereignty, or armed conflict.⁴ The list of passports and corresponding visa requirements to enter the country, provided by the National Directorate of Migration, appears to indicate that passports issued by, for example, the government of Taiwan and by the Palestinian Authority are recognized for visa purposes.⁵

The National Directorate of Migration has the power to exempt applicants for humanitarian reasons from the requirement to present a valid passport and to grant them temporary residence.⁶

¹ Ley 25871 de Migraciones art. 105, Boletín Oficial (BO), Jan. 21, 2004, <https://perma.cc/JF7W-QDMS>.

² Ley 26165 General de Reconocimiento y Protección al Refugiado art. 105, BO, Dec. 1, 2006, <https://perma.cc/5LWF-EJMJ>.

³ Decreto 261/2011 Reglamento para la Emisión de Pasaportes recital 1, BO Mar. 4, 2011, <https://perma.cc/LU3V-ELSG>.

⁴ Dirección Nacional de Migraciones, Régimen de Visas, <https://perma.cc/S3VR-9TKB>.

⁵ Id.

⁶ Ley 25871 de Migraciones art. 23.m; Disposición 72033/2007 Procedimientos y Requisitos Respecto de Tramitaciones que Queden Comprendidas en lo Previsto en el Inciso m) del Artículo 23 de la Ley N° 25871 art. 4.b, B.O. Nov. 23, 2007, <https://perma.cc/6NMV-BBHW>.

III. Recognition of Irregular Passport Extension

Immigration authorities may authorize entry of foreigners who do not meet legal requirements when there are exceptional reasons of a humanitarian nature, considerations of public interest, or requirements to comply with international commitments.⁷

Under this authority, Argentina recognizes expired passports issued by the Venezuelan government, for a period of no longer than two years.⁸

IV. Issuance of Alternative Travel Documents

A. Politically Persecuted Persons

According to Argentina's General Law on the Recognition and Protection of Refugees, immigration authorities will assist applicants for refugee status to obtain documents needed to apply for refugee status when the applicant does not want to request assistance from the authorities of the government of his or her country of nationality or habitual residence, considering his or her special circumstances.⁹

The National Registry of Persons will issue a travel document to those with refugee or stateless status,¹⁰ valid for two years.¹¹ The travel document will have to meet international standards, such as including in its first page either the word "refugee" or "stateless," and have the code required for the mechanical reading of identity documents.¹² The travel document will be required in order for the refugee or stateless individual to leave the country.¹³

The National Registry of Persons may issue a special passport for foreigners who do not qualify as refugees but are protected for humanitarian reasons.¹⁴ This special passport may be issued if they have resided in Argentina and are not able to obtain a travel document from their own country as a result of humanitarian issues or force majeure.¹⁵ The situation of those who cannot regularize their immigration status and if forced to return to their country of origin would be

⁷ Ley 25871 de Migraciones art. 34 para 2.

⁸ Disposición 520/2019, DI-2019-520-APN-DNM#MI, Anexo I art. 1, Dirección Nacional de Migraciones, Jan. 29, 2019, <https://perma.cc/VE3S-FTQ7>.

⁹ Ley 26165 General de Reconocimiento y Protección al Refugiado art. 54.

¹⁰ Decreto 261/2011 Reglamento para la Emisión de Pasaportes, Anexo I arts. 1.b, 1.c, 4.

¹¹ Id. art. 5.

¹² Id. art. 5 last para.

¹³ Id. art. 9 para 2.

¹⁴ Decreto 261/2011 Reglamento para la Emisión de Pasaportes, Anexo I art. 6.

¹⁵ Id.

subject to violations of human rights will especially be taken into account.¹⁶ The special passport for foreigners is valid for two years.¹⁷

B. Other Persons

Migrant workers may be granted temporary residence for a maximum of three years, extendable, with multiple entries and exits, with a work permit to engage in any legal, remunerated activity.¹⁸ However, no rule was located providing travel documents to migrant workers or temporary residents other than the ones provided for refugees, stateless individuals and persons under humanitarian protection, as addressed above under section A.

¹⁶ Decreto Reglamentario 616/2010 Reglamenta la Ley 25871 art. 23.m, <https://perma.cc/WYQ5-KJEX>.

¹⁷ Id. art. 7.

¹⁸ Id. art. 23.a.

Australia

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SUMMARY A legislative instrument related to eligible passports for the purposes of immigration clearance in Australia lists certain characteristics that make passports ineligible, as well as specific travel documents that are not considered eligible passports. Among the characteristics that will exclude a passport from eligibility are that its endorsement by Australian authorities “would indicate recognition of the issuing authority contrary to Australian Government foreign policy,” or that it was “issued by an entity which is not recognised by the Australian Government as empowered to issue travel documents.” The instrument’s list of ineligible documents is amended from time to time to reflect new documents or changes in Australian government policy with respect to an entity or authority. Among the passports the Australian government currently recognizes are those issued by the Palestinian Authority, Turkish passports with endorsements identifying the holder as an official of the Turkish Republic of Northern Cyprus, and non-diplomatic passports issued by Taiwan. No information was located regarding Australia having recognized passport extensions granted by a foreign government after the expiration date of a passport.

The Australian government can issue travel documents to non-citizens in certain circumstances. Certificates of Identity may be issued to non-citizens who are about to leave Australia and who are either stateless or unable to obtain a travel document from their country of nationality. Convention Travel Documents can be issued to a non-citizen who is in Australia and has been recognized as a refugee under the 1951 Refugee Convention. In addition, Documents of Identity can be issued to “citizens of other Commonwealth countries who are unable to obtain a travel document from their country of nationality (for example, in emergency situations overseas).”

I. Introduction

Under the Australian Constitution, the Commonwealth (i.e., federal) Parliament has the power to make laws with respect to “immigration and emigration,” “external affairs,” and “naturalization and aliens.”¹ Australian passports and other travel documents are issued by the Australian Passports Office, which is part of the Department of Foreign Affairs and Trade (DFAT).² The Department of Home Affairs is responsible for immigration and customs border policy, among other functions.³

¹ Australian Constitution s 51(xix), (xxvii), (xxix), <https://perma.cc/8773-QSCE>.

² See *Client Service Charter*, Australian Passport Office, <https://perma.cc/7AKW-R8TP>.

³ *Who We Are*, Department of Home Affairs, <https://perma.cc/8M67-UJNR>.

II. Recognition of Passports Issued by Alternative Governments

Section 165 of the Migration Act 1958 (Cth) defines “eligible passport,” for the purposes of the provisions on immigration clearance in Division 5 of Part 2 of the Act, as a passport of a kind specified in a determination under section 175A. Section 175A provides that “the Minister or the Secretary may, by legislative instrument, determine that a specified kind of passport is an eligible passport.”⁴

The instrument currently in force under section 175A is the Migration (IMMI 18/002: Eligible Passports) Instrument 2018 (Cth) (IMMI 18/002), made by the Secretary of the Department of Home Affairs.⁵ Section 6 of IMMI 18/002 provides as follows:

Determine that for the purposes of the definition of ‘eligible passport’ in section 165 of the Act, all valid passports are ‘eligible passports’ with the exception of the following specified travel documents:

- (a) travel documents with certain characteristics specified in Schedule 1 to this instrument; and
- (b) travel documents specified in Schedule 2 to this instrument.⁶

Schedule 1 lists the following as characteristics that will result in a travel document not being an eligible passport:

- (1) Group passports (eg. a passport issued to a sporting team) other than a family;
- (2) Travel document or passport which has been damaged, accidentally or otherwise, in such a way that the name, the photograph, the personal details or other important information have been obscured or pages are missing or where it is not possible to confirm conclusively the holder’s identity because of such damage;
- (3) In the case of permanent visas, travel document or passport endorsed by the issuing authority to the effect that it is not valid for migration;
- (4) In the case of temporary visas, travel document or passport which is not endorsed, or is not accompanied by separate evidence of, a right of re-entry to the issuing country or another country;
- (5) Travel document or passport where endorsement of the document would indicate recognition of the issuing authority contrary to Australian Government foreign policy; or
- (6) Travel document or passport issued by an entity which is not recognised by the Australian Government as empowered to issue travel documents.⁷

⁴ Migration Act 1958 (Cth) ss 165 & 175A, <https://perma.cc/4DNJ-5EUV>.

⁵ Migration (IMMI 18/002: Eligible Passports) Instrument 2018 (Cth), <https://perma.cc/B7HM-C7N6>.

⁶ Id. s 6.

⁷ Id. sch 1.

Schedule 2 lists specific travel documents that are not considered eligible passports. These include, for example, “Abkhazia and South Ossetia passport and travel documents”; “Royal Albanian passport (issued by the Royal Albanian Government in exile)”; “Principality of Castellania passport”; “German Democratic Republic (GDR) passport and travel documents”; “Hong Kong Certificate of Residence”; “Somali passport and travel documents”; “Taiwan Official/Diplomatic travel documents”; and “Turkish-Cypriot travel documents and passports issued by the Turkish Republic of Northern Cyprus.”⁸

The same criteria and list of specific documents are contained in another instrument, Migration (IMMI 18/001: Class of Passports) Instrument 2018 (Cth) (IMMI 18/001),⁹ made under the Migration Regulations 1994 (Cth), which designates the class of passports for Public Interest Criterion 4021(a)(iii) in schedule 4 of the Regulations.¹⁰ Public Interest Criterion 4021 requires visa applicants to hold a valid passport that

- (i) was issued to the applicant by an official source; and
- (ii) is in the form issued by the official source; and
- (iii) is not in a class of passports specified by the Minister in an instrument in writing for this clause¹¹

The criterion can also be met where “it would be unreasonable to require the applicant to hold a passport.”¹²

A. Turkish Republic of Northern Cyprus

As indicated above, travel documents and passports issued by the Turkish Republic of Northern Cyprus are specifically excluded from being recognized as “eligible passports” under schedule 2 of IMMI 18/002. However, the explanatory note to that instrument, in explaining changes made compared to the previous instrument issued in 2014 (IMMI 14/079), states that the schedule 2 was revised to remove Turkish passports identifying the holder as an official of the Turkish Republic of Northern Cyprus from the list of ineligible passports.¹³ The explanatory note states that

[t]his change will mean that Turkish passports with endorsements identifying the holder as an official of the Turkish Republic of Northern Cyprus will be considered an “eligible passport” for Division 5 of Part 2 of the Act. This change aligns Australia with our international partners (the United States and European Union member states) but does not

⁸ Id. sch 2.

⁹ Migration (IMMI 18/001: Class of Passports) Instrument 2018 (Cth), <https://perma.cc/F7UZ-XHR3>.

¹⁰ See Migration (IMMI 18/001: Class of Passports) Instrument 2018 (Cth), Explanatory Statement, <https://perma.cc/54BH-NAYR>.

¹¹ Migration Regulations 1994 (Cth) sch 4 pt 1 Public Interest Criterion 4021(a), <https://perma.cc/J8XM-HNKL>.

¹² Id. sch 4 pt 1 Public Interest Criterion 4021(b).

¹³ Migration (IMMI 18/002: Eligible Passports) Instrument 2018 (Cth), Explanatory Statement, <https://perma.cc/YR34-MT3K>.

Recognition of Foreign Passports: Australia

alter Australia's long standing policy to recognise only the Republic of Cyprus and support reunification of the island.¹⁴

The DFAT website states that

Australia supports the sovereignty and territorial integrity of the Republic of Cyprus and recognises the Republic as the only legitimate authority on the island. Australia does not recognise the 'Turkish Republic of Northern Cyprus'.¹⁵

B. Palestinian Authority

Passports issued by the Palestinian Authority are not listed in schedule 2 of IMMI 18/002. It appears that such passports are recognized in Australia, with the current instrument related to applications for a visitor visa, Migration (LIN 20/046: Arrangements for Visitor (Class FA) Visa Applications) Instrument 2020 (Cth), including reference to Palestinian Authority passports in schedule 7, which sets out the conditions for passports issued by specified countries, territories, and organizations. The condition with respect to the Palestinian Authority is simply that the "[p]assport must indicate that it has been issued to the applicant by the Palestinian Authority."¹⁶

This is notwithstanding the fact that Australia does not recognize a Palestinian state at present. The DFAT website says that

Australia does not recognise a Palestinian state. We are committed to a two-state solution in which Israel and a future Palestinian state co exist, in peace and security, within internationally recognised borders.¹⁷

C. Taiwan

As noted above, "Taiwan Official/Diplomatic travel documents" are included in the list of passports that are not considered eligible passports under schedule 2 of IMMI 18/002. However, other passports issued by Taiwan appear to be acceptable, on the basis that they are not explicitly excluded and that conditions for Taiwanese passports are included in schedule 7 of LIN 20/046, related to visitor visas. The condition stated for such passports is that the "[p]assport must not purport to be an official or diplomatic passport."¹⁸

DFAT explains that Australia recognized the Republic of China (ROC) government in Taipei until the establishment of diplomatic relations with the People's Republic of China (PRC) in 1972. Australia's Joint Communiqué with the PRC "recognised the Government of the PRC as China's

¹⁴ Id.

¹⁵ *Cyprus Country Brief*, Department of Foreign Affairs and Trade, <https://perma.cc/L955-H2GC>.

¹⁶ Migration (LIN 20/046: Arrangements for Visitor (Class FA) Visa Applications) Instrument 2020 (Cth) sch 7, <https://perma.cc/86AW-X4TY>.

¹⁷ *Palestinian Territories*, Department of Foreign Affairs and Trade, <https://perma.cc/249T-8KSA>.

¹⁸ Migration (LIN 20/046: Arrangements for Visitor (Class FA) Visa Applications) Instrument 2020 (Cth) sch 7.

sole legal government, and acknowledged the position of the PRC that Taiwan was a province of the PRC.” Furthermore,

[t]he terms of our Joint Communiqué dictate the fundamental basis of Australia’s one China policy – the Australian Government does not recognise the ROC as a sovereign state and does not regard the authorities in Taiwan as having the status of a national government. Dealings between Australian government officials and Taiwan, therefore, take place unofficially. For example, Australia’s representative office in Taiwan does not have diplomatic status nor do Taiwan’s representative offices in Australia, which have the title “Taipei Economic and Cultural Office” (TECO).¹⁹

III. Recognition of Irregular Passport Extensions

No information was located regarding Australia having recognized passport extensions granted by a foreign government after the expiration date of a passport. One example of such an extension being deemed unacceptable was found: the explanatory note for a previous (October 2014) instrument²⁰ specifying acceptable travel documents with respect to Public Interest Criterion 4021 stated that “[t]he Instrument has been amended to include expired Syrian passports, which have been extended in validity via a label or other endorsement by the Syrian National Coalition, as unacceptable travel documents.”²¹

IV. Issuance of Alternative Travel Documents

A. Politically Persecuted Persons

Australia issues two types of travel documents to non-citizens that may be available to persons who were persecuted in their country of origin: Convention Travel Documents (CTDs) and Certificates of Identity (COIs) (also known as Titre de Voyage). According to the Australian Passport Office, “[t]hese travel documents don’t confer Australian citizenship or Australian consular protection. They’re not evidence of any right to re-enter or remain in Australia. They exist simply to facilitate overseas travel for people who would otherwise have no travel document.”²² That is, to return to Australia, a holder will need to also have a valid visa that allows for re-entry; such visa holders will be able to get assistance with replacing a travel document while overseas, and permanent residents of Australia may have access to consular assistance as well.²³ The Passport Office further advises holders that “[y]ou’ll need to meet the visa and travel

¹⁹ *Australia-Taiwan Relationship*, Department of Foreign Affairs and Trade, <https://perma.cc/9VF7-Q4GA>.

²⁰ Migration Regulations 1994 - Specification of Class of Passports - IMMI 14/073 (Cth), <https://perma.cc/27UK-JMQD>.

²¹ Migration Regulations 1994 - Specification of Class of Passports - IMMI 14/073 (Cth), Explanatory Statement, <https://perma.cc/3E4D-PEMR>.

²² *Non-citizen Travel Documents*, Australian Passport Office, <https://perma.cc/PKC2-TEYG>.

²³ See Australian Passport Office, *Lodging Australian Travel Document Applications for Unaccompanied Humanitarian Minors: A Guide for Guardians* 6 (Aug. 2016), <https://perma.cc/CGC4-E62B>.

document requirements of the countries to which you intend to travel. COIs are accepted in fewer overseas countries than CTDs.”²⁴

DFAT states that “CTDs and COIs are machine-readable (biometric) travel documents and meet the internationally agreed standards set out by the International Civil Aviation Organization (ICAO Doc 9303 Machine Readable Travel Documents). Biometric travel documents include a tamper proof passport chip as a security measure.”²⁵

CTDs and COIs are issued under section 9 of the Australian Passports Act 2005 (Cth)²⁶ and relevant provisions in the Australian Passports Determination 2015 (Cth).²⁷ Applicants do not choose between a CTD and a COI: Once the Passports Office received the application, it assesses the person’s situation and determines which document he or she is eligible to receive.²⁸

1. *Dissidents*

A person may be eligible for a COI if they are

- not an Australian citizen, and
- about to leave Australia, and either
- stateless, or
- unable to obtain a valid travel document from [their] country of nationality.²⁹

COIs are valid for a maximum period of two years.³⁰ However, if the person returns to their home country and is eligible for a travel document from that country, their COI “becomes invalid immediately.”³¹

2. *Refugees*

A person may be eligible for a CTD if they are in Australia, are not an Australian citizen, and have been recognized by the Department of Home Affairs as a refugee under the 1951 Refugee Convention. A person can either be lawfully resident or otherwise lawfully staying in Australia, or be not lawfully resident in Australia but “unable to obtain a travel document from the country of his or her lawful residence.”³²

²⁴ *Non-citizen Travel Documents*, supra note 22.

²⁵ *Compass – Policy*, Department of Foreign Affairs and Trade, <https://perma.cc/BM8P-832X>.

²⁶ Australian Passports Act 2005 (Cth) s 9, <https://perma.cc/LEQ9-RAUP>.

²⁷ Australian Passports Determination 2015 (Cth), <https://perma.cc/QAG5-LXBU>.

²⁸ *Non-citizen Travel Documents*, supra note 22.

²⁹ *Id.*

³⁰ Australian Passports Determination 2015 (Cth) s 7(3).

³¹ *Non-citizen Travel Documents*, supra note 22.

³² Australian Passports Determination 2015 (Cth) s 6(1)-(3).

CTDs are usually valid for one or two years, depending on whether or not a person is a lawful resident.³³

3. *Asylum-seekers*

Where there has not been a determination that an asylum-seeker is a refugee for the purposes of the 1951 Refugee Convention, it appears they would not be eligible for a CTD. If they are stateless or unable to obtain a valid document from their country of nationality, they may be eligible for a COI if they are about to leave Australia.

4. *Stateless Persons*

As indicated above, a stateless person (who has not been recognized as a refugee and therefore is not entitled to a CTD) may be granted a COI if they are about to leave Australia. The Australian Passport Office states that “[i]f you claim to be stateless in accordance with the UN Convention Relating to the Status of Stateless Persons, we’ll confirm your claim with the Department of Home Affairs. An Australian immigration document that shows ‘stateless’ as your nationality is not enough to prove that you’re stateless.”³⁴

B. Other Persons

Another type of Australian travel document, Documents of Identity (DOIs), “may be issued [for travel purposes] to Australian citizens in certain circumstances where an Australian passport is unnecessary or undesirable or to citizens of other Commonwealth [of Nations] countries who are unable to obtain a travel document from their country of nationality (for example, in emergency situations overseas).”³⁵ DOIs may be valid for up to three years.³⁶

³³ Id. s 6(6).

³⁴ *Non-citizen Travel Documents*, supra note 22.

³⁵ *Compass – Policy*, supra note 25. See also Australian Passports Determination 2015 (Cth) s 8(1).

³⁶ Australian Passports Determination 2015 (Cth) s 8(2).

Brazil

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SUMMARY A Brazilian federal law regulates travel documents, which include, among others, a passport and a laissez-passer. A decree from 2017 states that a visa may be affixed to any valid travel document. However, it does not imply recognition by the state, government or regime. The Ministry of Foreign Affairs lists several territories that are not recognized by Brazil, and by extension, alternative passports issued by these territories are most likely not recognized. In 2019, Brazil responded to a request, made by the incumbent president Juan Guaidó, and extended the validity of Venezuelan passports for another five years from the due date.

I. Introduction

A. Decree No. 1,983 of August 14, 1996

Decree No. 1,983 of August 14, 1996, regulates, among other things, travel documents.¹

For the purposes of this decree, travel documents are considered:

I - passport;

II - laissez-passer;

III - authorization to return to Brazil;

IV - safe conduct;

V - civil identity card or equivalent foreign document, when admitted to treaties, agreements and other international acts;

VI - air transport crew member certificate;

VII - maritime identity;

VIII - consular registration card.²

Decree No. 1,983 defines a passport as the identification document, owned by the Union, required of all those who intend to travel internationally, except in the cases provided for in treaties, agreements, and other international acts.³ The passport is a personal and nontransferable document.⁴

¹ Decreto No. 1.983, de 14 de Agosto de 1996, Anexo, <https://perma.cc/79H2-3ELB>.

² Id. art. 1.

³ Id. art. 2.

⁴ Id. art. 2 (sole para.).

Brazilian passports are classified as diplomatic, official, common, for foreigners, or emergency.⁵ Diplomatic and official passports are issued by the Ministry of Foreign Affairs.⁶ Common passports, passports for foreigners, and emergency passports are issued in the national territory by the Federal Police Department and abroad by diplomatic missions or consular offices.⁷

The common passport, requested under the terms of Decree No. 1,983, will be granted to every Brazilian citizen.⁸ An emergency passport will be granted to someone who, having satisfied the passport requirements, urgently needs a travel document and shows evidence that he or she cannot wait for the delivery deadline, in the event of natural disasters, armed conflicts or other emergency situations, individual or collective, defined in an act of the Ministry of Justice or Foreign Affairs, as the case may be.⁹ These requirements may be waived in exceptional situations duly justified by the granting authority.¹⁰

Information regarding other travel documents, including passports for foreigners and *laissez passer*, is provided in part IV, below.

B. Decree No. 9,199 of November 20, 2017

Decree No. 9,199 of November 20, 2017,¹¹ regulates Law No. 13,445 of May 24, 2017, which created a new migration law.¹² According to article 4 of Decree No. 9,199, a visa is the document that gives the holder the expectation of entering the national territory.¹³ The visa may be affixed to any valid travel document issued in the standards established by the International Civil Aviation Organization, which does not imply recognition by the state, government or regime.¹⁴

According to article 4 (§ 2), for the purpose of affixing a visa, a valid travel document, issued by a foreign government or international body recognized by the Brazilian Government, is considered a passport, a *laissez-passer*, or a document equivalent to them.¹⁵

Exceptionally, when the applicant is unable to present a valid travel document issued under the terms provided for in article 4 (§ 2), the visa may be affixed to a Brazilian *laissez-passer*.¹⁶

⁵ Id. art. 3.

⁶ Id. art. 4.

⁷ Id. art. 5.

⁸ Id. art. 10.

⁹ Id. art. 13.

¹⁰ Id. art. 13 (sole para.).

¹¹ Decreto No. 9.199, de 20 de Novembro de 2017, <https://perma.cc/E3SD-AMF5>.

¹² Lei No. 13.445, de 24 de Maio de 2017, <https://perma.cc/FP4Y-W8X5>.

¹³ Decreto No. 9.199, art. 4.

¹⁴ Id. art. 4, § 1.

¹⁵ Id. art. 4, § 2.

¹⁶ Id. art. 4, § 3.

II. Recognition of Passports Issued by Alternative Governments

It was not possible to determine whether Brazil has recognized an alternative passport issued by a government of an area that has proclaimed independence, sovereignty or is in a state of conflict. However, the website of the Ministry of Foreign Affairs lists the territories not recognized by Brazil, which include, but may not be limited to, Abkhazia, Nagorno-Karabakh, Kosovo, South Ossetia, Republic of Crimea, Sahrawi Arab Democratic Republic, Turkish Republic of Northern Cyprus, Somaliland, and Transnistria.¹⁷

III. Recognition of Irregular Passport Extension

On August 5, 2019, in response to a request made on July 10, 2019, by Venezuela's incumbent president Juan Guaidó, the Brazilian government announced that it was going to accept as valid for another five years expired passports of Venezuelan refugees and immigrants.¹⁸ The communication recognizes a decree of May 21, 2019, issued by Guaidó that extended the validity of the documents for another five years from the due date.¹⁹

IV. Issuance of Alternative Travel Documents

A. Politically Persecuted Persons

Under Decree No. 1,983, a "passport for a foreigner" may be granted in the national territory to:

- a) a stateless person or to a person with undefined nationality;
- b) asylum seekers or refugees in the country, as long as they are recognized under these conditions by the Brazilian government;
- c) the national of a country that has no representation in the national territory or is represented by another country, after consultation with the Ministry of Foreign Affairs;
- d) a foreigner who proves to be without any identity document or travel document, and who has no way of proving his nationality;
- e) a foreigner legally registered in Brazil and who needs to leave the national territory and return to it, in the cases in which he or she does not have a travel document.²⁰

A passport for a foreigner will be granted abroad to:

- a) a stateless person or to a person with undefined nationality;
- b) the spouse, widower or widow of a Brazilian who has lost his original nationality due to marriage;

¹⁷ *Territórios Não Reconhecidos pelo Brasil*, Ministério das Relações Exteriores, <https://perma.cc/PL3C-BXKE>.

¹⁸ *Brasil Reconhecerá Passaporte Venezuelano Vencido por Mais 5 Anos*, *Veja* (Aug. 5, 2019), <https://perma.cc/QF2Q-3S42>.

¹⁹ *Id.*

²⁰ Decreto No. 1.983, de 14 de Agosto de 1996, Anexo, art. 12(I).

Recognition of Foreign Passports: Brazil

c) foreigners legally registered in Brazil and who need to enter the national territory, in cases in which they do not have a valid travel document, after consulting the Federal Police Department.²¹

B. Other Persons

A laissez-passer is a travel document, which belongs to the Union, granted in the national territory by the Federal Police Department and abroad by the Ministry of Foreign Affairs, to a foreigner holding a travel document not recognized by the Brazilian government or that is not valid for Brazil.²²

An authorization to return to Brazil is a travel document, which belongs to the Union, issued by diplomatic missions or consular offices to those who, in order to return to the national territory, cannot fulfill the requirements for obtaining a passport or laissez-passer.²³

A safe-conduct is a travel document, which belongs to the Union, issued by the Ministry of Justice, intended to allow the exit from the national territory of anyone who obtains diplomatic asylum granted by a foreign government.²⁴

C. Alternative Travel Document Requirements

The conditions for granting passports for foreigners abroad, and for the laissez-passer, are established by the Ministry of Foreign Affairs.²⁵ The conditions for granting a safe-conduct are established by the Ministry of Justice.²⁶ The conditions for granting a passport for a foreigner or a laissez-passer to a person within Brazil are established by the Federal Police Department, subject to the provisions of Decree No. 1,983.²⁷

A passport for a foreigner must only be used for a round trip, and must be collected by the Federal Police Department's migratory control when its holder enters the national territory.²⁸ The laissez-passer can be used for multiple entries and must be collected by the Federal Police Department's migratory control when its validity period expires, or before that in case of irregular use.²⁹

²¹ Id. art. 12(II).

²² Id. art. 14.

²³ Id. art. 15.

²⁴ Id. art. 16.

²⁵ Id. art. 23.

²⁶ Id. art. 25.

²⁷ Id. art. 26.

²⁸ Id. art. 38, § 1.

²⁹ Id. art. 38, § 2.

Canada

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SUMMARY Under Canada’s main immigration law, the only passport or travel document of an alternative government that is recognized explicitly is the Palestinian Authority. On the issue of recognition of passport extensions, the law grants the federal government discretionary authority to issue ministerial instructions and one instruction recognizes a decree published by the Venezuelan National Assembly on June 7, 2019, on the validity of expired Venezuelan passports. Canada recognizes a number travel documents including a refugee travel document and the certificate of identity. They are issued to residents of Canada who are convention refugees, protected persons, and stateless persons.

I. Introduction

Immigration and refugee matters, including the issuance and recognition of passports and travel documents, is regulated by Canada’s main immigration law, the Immigration and Refugee Protection Act (IRPA),¹ the Immigration and Refugee Protection Regulations,² and other ministerial instructions. Immigration, Refugees and Citizenship Canada (IRCC) is the department of the federal government of Canada with the mandate over matters dealing with immigration, refugees, and citizenship.³

II. Recognition of Passports Issued by Alternative Governments

Section 52(1) of the regulations stipulates that “a foreign national seeking to become a temporary resident must hold one of the following documents that is valid for the period authorized for their stay:”

- (a) a passport that was issued by the country of which the foreign national is a citizen or national, that does not prohibit travel to Canada and that the foreign national may use to enter the country of issue;
- (b) a travel document that was issued by the country of which the foreign national is a citizen or national, that does not prohibit travel to Canada and that the foreign national may use to enter the country of issue;
- (c) an identity or travel document that was issued by a country, that does not prohibit travel to Canada, that the foreign national may use to enter the country of issue and that is of the type issued by that country to non-national residents, refugees or stateless

¹ Immigration and Refugee Protection Act (IRPA), S.C. 2001, c. 27, <https://perma.cc/F8SY-LG4U>.

² Immigration and Refugee Protection Regulations, SOR/2002-227, <https://perma.cc/EE3F-9KCE>.

³ *Immigration, Refugees and Citizenship Canada*, Immigr., Refugees & Citizenship Can. (IRCC) (Nov. 12, 2020), <https://perma.cc/CJG6-6S94>.

Recognition of Foreign Passports: Canada

persons who are unable to obtain a passport or other travel document from their country of citizenship or nationality or who have no country of citizenship or nationality;

- (d) a laissez-passer that was issued by the United Nations;
- (e) a passport or travel document that was issued by the Palestinian Authority;
- (f) a document that was issued by the Organization of American States and is entitled “Official Travel Document”;
- (g) a passport issued by the United Kingdom to a British Overseas Citizen;
- (h) a passport issued by the United Kingdom to a British National (Overseas), as a person born, naturalized or registered in Hong Kong;
- (i) a passport issued by the Hong Kong Special Administrative Region of the People’s Republic of China; or
- (j) a passport issued by the United Kingdom to a British Subject.⁴

A similar provision is provided for permanent residents under section 50(1).⁵

A. Palestinian Authority

Sections of the regulations also recognize passport or travel documents that have been issued by the Palestinian Authority for purposes of temporary and permanent residence.⁶ Canada recognizes the “Palestinian right to self-determination and supports the creation of a sovereign, independent, viable, democratic and territorially contiguous Palestinian state, as part of a comprehensive, just and lasting peace settlement.” Canada recognizes the Palestinian Authority as “the governmental entity in the West Bank and Gaza” and also recognizes the Palestine Liberation Organization as the “principal representative of the Palestinian people.”⁷

B. Hong Kong

Canada recognizes two forms of passports issued for residents from Hong Kong for purposes of temporary residence and permanent residency. It recognizes a British National Overseas passport issued by the United Kingdom to a person born, naturalized, or registered in Hong Kong.⁸ It also recognizes a passport issued by the Hong Kong Special Administrative Region of the People’s Republic of China.⁹ These residents are also exempt temporary residence visas requirements.¹⁰ In order to support commitment “made by the Government of Canada to maintain the many connections between Canada and Hong Kong in response to the Chinese government’s

⁴ Immigration and Refugee Protection Regulations, § 52(1).

⁵ Id. § 50(1).

⁶ Id. §§ 50(1)(e), 52(1)(e).

⁷ *Canadian Policy on Key Issues in the Israeli-Palestinian Conflict*, Gov’t of Canada, (Mar. 19, 2019), <https://perma.cc/R2KR-B24D>.

⁸ Immigration and Refugee Protection Regulations, §§ 50(1)(g), 52(1)(h).

⁹ Id. §§ 50(1)(h), 52(1)(i).

¹⁰ Id. § 190(2)(d), (e).

imposition and implementation of the national security law in Hong Kong,” the IRCC introduced an immigration initiative and special measures for Hong Kong youths and students,¹¹ “offering a new open work permit and broadening their pathways to permanent residency.”¹²

III. Recognition of Irregular Passport Extension

IRPA grants the federal government discretionary authority to issue ministerial instructions and regulations to govern the entry of foreigners and waive certain requirements regarding travel documents and visas.¹³

The Government of Canada recognized, through special ministerial instructions or waiver,¹⁴ the decree published by the Venezuelan National Assembly on June 7, 2019, “regarding the validity of expired Venezuelan passports.” CBC News reported that:

As millions of Venezuelans have poured out of the country, questions of establishing identity and verifying documents have plagued migrants and host governments alike. Venezuelan consulates either cannot or will not replace expired documents, leaving many citizens in limbo. In Canada, some Venezuelans who came to the country on legal student visas have found themselves unable to continue their studies or graduate because they’ve been unable to update documents. Others with permanent residence have seen their progress toward citizenship interrupted because their Venezuelan documents are no longer valid.¹⁵

According to a press release, “Venezuelan passport holders wanting to travel to or stay in Canada can now continue to use their passport if it expired less than 5 years ago or will soon expire.”¹⁶ Venezuelans can “use these passports to apply for a visitor visa, a study or work permit, or

¹¹ *Guidance for Special Measures to Support Hong Kong Residents to Come to Canada*, IRCC (Feb. 5, 2021), <https://perma.cc/5GAJ-NJHT>.

¹² News Release, IRCC, Canada Announces Immigration Measures Supporting Hong Kong Residents and Canadians in Hong Kong (Nov. 12, 2020), <https://perma.cc/A4WN-WAPM>; News Release, IRCC, Canada Launches Hong Kong Pathway That Will Attract Recent Graduates and Skilled Workers with Faster Permanent Residency (Feb. 4, 2021), <https://perma.cc/NW3S-6ZRN>.

¹³ IRPA includes several sections that grant the federal government the authority to issue ministerial instructions and regulations. See 10.3(1) [permanent residency requirements], 14.1(1) [economic immigration], 87.3(1) [processing applications and requests].

¹⁴ News Release, IRCC, Canada Recognizes the Extension of Validity of Expired Venezuelan Passports (Aug. 19, 2019), <https://perma.cc/8MGX-GELU>.

¹⁵ Evan Dyer, *Canada to Grant Passport Waiver to Venezuelans Caught in Border Limbo*, CBC News (Aug. 19, 2019), <https://perma.cc/2LWZ-6Z6C>.

¹⁶ News Release, IRCC, Canada Recognizes the Extension of Validity of Expired Venezuelan Passports, *supra* note 14.

permanent residence or to extend their stay in Canada.”¹⁷ It excludes provisional passports which are designated as unreliable travel documents by the Government of Canada.¹⁸

IV. Issuance of Alternative Travel Documents

A. Politically Persecuted Persons

Section 259 of the regulations prescribes certain documents that a person requires under the Immigration and Refugee Protection Act to enter Canada, and they include refugee travel papers. Canada issues a number of types of travel documents, including a refugee travel document and the certificate of identity. They are issued to residents of Canada who are convention refugees, protected persons, or stateless persons. These documents are only issued in Canada.¹⁹ Canada also issues temporary travel documents for certain classes of refugees who make their claims from outside the country.

1. Refugees and Asylum Seekers

Persons inside Canada with protected person status can be issued refugee travel documents.²⁰ This includes convention refugees or persons in need of protection. According to the United Nations Convention Relating to the Status of Refugees, “refugees are persons who are outside the country of their nationality and have a well-founded fear of being persecuted for reasons of race, religion, nationality, political opinion, or membership of a particular social group.” Under a number of conventions, “persons in need of protection are persons whose removal to their country of origin would subject them personally to: a danger of torture, a risk to their life, or a risk of cruel and unusual treatment or punishment.”²¹ Under its refugee system, Canada provides refugee protection under two programs for persons outside of Canada and an asylum program within the country.²²

Refugee travel documents (RTDs) can be used for travel to all countries, except the country of citizenship.²³ To apply, a person will need to provide Passport Canada with proof of their status in Canada with either a letter from the Immigration and Refugee Board, a confirmation of permanent residence, or a Verification of Status document.²⁴ Travelers are required to “return to

¹⁷ Id.

¹⁸ *Canada Recognizes the Extension of Validity of Venezuelan Passports*, IRCC (Aug. 19, 2019), <https://perma.cc/3H54-7K98>; *Valid Passports and Other Travel Documents Needed to Come to Canada*, IRCC (Jan. 30, 2020), <https://perma.cc/G5QM-3D5R>.

¹⁹ *Canadian Travel Documents for Non-Canadians in Canada*, IRCC (Jan. 8, 2021), <https://perma.cc/BV5B-BN8W>.

²⁰ IRPA § 31(1).

²¹ *Refugee Claims*, IRCC (July 5, 2018), <https://perma.cc/GRZ2-932D>.

²² *How Canada’s Refugee System Works*, IRCC (Nov. 27, 2019), <https://perma.cc/KP2W-7QHF>.

²³ *Types of Passports and Travel Documents*, Gov’t of Canada (Jan. 12, 2021), <https://perma.cc/4F32-AJWT>.

²⁴ *I am a Refugee and I Need to Travel Outside Canada. What Documents Do I Need to Travel?* Gov’t of Canada (Mar. 16, 2021), <https://perma.cc/YB6P-5ELZ>.

Canada prior to the expiry date indicated on the RTD and, at that time, they should have in their possession both the RTD and the protected person status document.”²⁵

Under section 151 of the Immigration and Refugee Protection Regulations, the Canadian government can also issue temporary travel documents to persons who are abroad who are granted protection as convention refugees or other protected persons. The requirements include that the person must hold a “permanent resident visa or a temporary resident permit” and “does not hold a valid passport or travel document issued by their country of nationality or the country of their present or former habitual residence” and “would be unable to travel to Canada if the temporary travel document were not issued.”²⁶

2. *Stateless Persons*

Certificates of identity are issued to eligible permanent residents of Canada “who are not protected persons and are stateless or cannot obtain a national passport or travel document from any other source.”²⁷

B. Permanent Residents

Under section 31(3), a permanent resident outside Canada who is not in possession of a status document indicating permanent resident status must, following an examination, be issued a “travel document if the officer is satisfied that they have met the residency and other requirements. . . .”²⁸ Travel documents are also issued to permanent residents who cannot get a national travel document for a valid reason.

²⁵ *Refugee Travel Document – Refugees and Protected Persons*, IRCC (Sept. 3, 2013), <https://perma.cc/N5NN-SZHM>. According to the IRCC website, “If a traveller is unable to produce a RTD due to the loss or theft of the document while outside Canada, the officer may issue a temporary resident permit in order to allow re-entry into Canada. Prior to issuing a permit, officers should question the applicant regarding the loss or theft of the RTD and be satisfied that the circumstances are genuine.”

²⁶ Immigration and Refugee Protection Regulations, § 151(b).

²⁷ *Determine Your Eligibility – Who Can Apply for a Travel Document*, Gov’t of Canada (Mar. 23, 2018), <https://perma.cc/HDA2-FQ96>.

²⁸ *Application Abroad for a Travel Document to Return to Canada Under A31(3) and R315*, IRCC (June 17, 2013), <https://perma.cc/BT9U-RCPB>.

China

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SUMMARY Under the Exit and Entry Law of the People’s Republic of China (PRC or China), foreigners must hold valid passports or other travel documents to enter or stay in China. The Passport Law provides that the passport is a document to prove the nationality and identity of Chinese citizens when they leave or enter China or when they are abroad.

China’s central government authorizes the governments of the Hong Kong Special Administrative Region (HKSAR) and the Macao SAR, where immigration is controlled separately, to issue the SAR passports that are valid for travel to all other countries. The holders must apply for the Mainland Travel Permit for Hong Kong and Macao Residents to enter mainland China. Until recently, China recognized the United Kingdom’s British National (Overseas) passport as a travel document for the purpose of traveling to other countries. Taiwan residents must apply for the Mainland Travel Permit for Taiwan Residents to enter mainland China. The China Office in the State of Palestine is accepting Palestinian passports for visa applications of those seeking to enter China.

The PRC Travel Permit, an alternative travel document to the passport, may be issued to Taiwan residents who cannot obtain foreign visas on their Taiwan travel documents. Hong Kong residents who are not eligible for the HKSAR passport may apply for the HKSAR Document of Identity for Visa Purposes, which can serve as their travel document. A foreigner in China who has lost the passport may apply for the Foreigner Exit/Entry Permit, which is valid for no more than 30 days.

I. Introduction

The entry and stay of foreigners in the People’s Republic of China (PRC or China) mainland is regulated by the PRC Exit and Entry Administration Law (Exit and Entry Law) and the relevant regulations. Under the Exit and Entry Law, foreigners must hold valid passports or other travel documents to enter or stay in China.¹ The Ministry of Public Security (MPS) and the Ministry of Foreign Affairs (MFA) are responsible for exit and entry affairs within the scope of their respective responsibilities.²

The primary law governing the issuance of the PRC passports and other travel documents is the PRC Passport Law that went into effect on January 1, 2007.³ The Passport Law provides that the

¹ PRC Law on the Administration of Exit and Entry (promulgated June 30, 2012, effective July 1, 2013) (Exit and Entry Law) arts. 24, 30, <https://perma.cc/E4EX-6GWE> (in Chinese and English).

² *Id.* art. 4.

³ PRC Passport Law (promulgated Apr. 29, 2006, effective Jan. 1, 2007) (Passport Law), <https://perma.cc/6PR7-RBPZ> (in Chinese), <https://perma.cc/M44G-9CPN> (official English translation).

PRC passport is a document to prove the nationality and identity of Chinese citizens when they leave or enter the territory of China or when they are abroad.⁴

In 2018, the National Immigration Administration (NIA) was established under the MPS. The new agency is responsible for immigration and border control and passport issuance, among other duties.⁵

Immigration is controlled separately in the Hong Kong Special Administrative Region (HKSAR) and the Macao SAR. According to their Basic Laws, the SAR governments apply immigration controls on the entry into, stay in, and departure from their own regions.⁶ In fact, “exit” and “entry” under the PRC Exit and Entry Law refer to leaving and entering mainland China for or from other countries or regions, the Hong Kong SAR, the Macao SAR, or Taiwan.⁷

II. Recognition of Passports Issued by Alternative Governments

Our research did not reveal any laws, rules, or official statements regarding China’s recognition of an alternative passport issued by a foreign government of an area that has proclaimed independence or sovereignty or is in a state of conflict. China’s central government, however, authorizes the governments of the Hong Kong SAR and the Macao SAR to issue the SAR passports, which are valid for travel to all other countries.

A. Hong Kong and Macao

1. SAR Passports

Under Hong Kong’s Basic Law, the central government authorizes the SAR government to issue the HKSAR passports to all Chinese citizens who hold permanent identity cards of the region and other travel documents to all other persons lawfully residing in the region. The HKSAR passports and travel documents are valid for the holders’ travel to all states and regions and return to Hong Kong.⁸ According to the HKSAR government, 167 countries and territories in the world have granted visa-free access or visa-on-arrival to HKSAR passport holders.⁹

A person is eligible to apply for a HKSAR passport if he or she is (1) a Chinese citizen, (2) a permanent resident of the HKSAR, and (3) a holder of a valid Hong Kong permanent

⁴ Id. art. 2.

⁵ *Overview of National Immigration Administration, NIA*, <https://perma.cc/5ZRH-S4SZ> (in Chinese).

⁶ Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China (Hong Kong Basic Law) art. 154, <https://perma.cc/7YER-E4J2>; Basic Law of the Macao Special Administrative Region of the People’s Republic of China (Macao Basic Law) art. 139, <https://perma.cc/PB6F-NUWD> (in Chinese).

⁷ Exit and Entry Law art. 89.

⁸ Hong Kong Basic Law art. 154.

⁹ *Visa-Free Access or Visa-on-Arrival for HKSAR Passport*, HKSAR Immigr. Dep’t (updated Mar. 1, 2021), <https://perma.cc/GMQ5-XE7C>.

identity card. A person is regarded as of Chinese nationality if he or she is a Hong Kong resident (1) of Chinese descent who was born in Hong Kong or other parts of China, or (2) who fulfills the criteria of Chinese nationality in the PRC Nationality Law. If the person concerned has declared a change of nationality and is no longer a Chinese national, he or she is not eligible for a HKSAR passport.¹⁰

Under the Basic Law of Macao, the central government authorizes the SAR government to issue the Macao SAR passports to all Chinese citizens who hold permanent identity cards of the region and other travel documents to all other persons lawfully residing in the region. The Macao SAR passports and travel documents are valid for the holders' travel to all states and regions and return to Macao.¹¹

The SAR passports cannot be used to enter mainland China. Rather, the holders must apply for the Mainland Travel Permit for Hong Kong and Macao Residents to enter mainland China.¹²

2. *BN(O) Passport*

Until recently, China recognized the British National (Overseas) (BN(O)) passport issued by the United Kingdom's government to Hong Kong residents as a travel document for the purpose of traveling to other countries and territories. According to the 1996 explanations issued by China's National People's Congress Standing Committee on the implementation of the PRC Nationality Law in Hong Kong,

[a]ll Hong Kong Chinese compatriots are Chinese nationals, whether or not they are holders of the "British Dependent Territories Citizens passport" or "British National (Overseas) passport". With effect from 1 July 1997, Chinese nationals mentioned above may, for the purpose of travelling to other countries and territories, continue to use the valid travel documents issued by the Government of the United Kingdom. However, they shall not be entitled to British consular protection in the Hong Kong Special Administrative Region and other parts of the People's Republic of China on account of their holding the above mentioned British travel documents.¹³

On January 29, 2021, China's MFA announced that, effective January 31, 2021, China would no longer recognize the BN(O) passport as a valid travel document and proof of identity. The HKSAR government also announced that, effective beginning the same day, BN(O) passports

¹⁰ *Application for HKSAR Passport*, HKSAR Immigr. Dep't (updated Mar. 9, 2021), <https://perma.cc/RT4T-VTQ2>.

¹¹ Macao Basic Law art. 139.

¹² *Compatriots of Hong Kong, Macao, and Taiwan Applying to Go to the Mainland*, China Consular Aff. (May 23, 2012), <https://perma.cc/VKX9-6LWE> (in Chinese).

¹³ Explanations of Some Questions by the Standing Committee of the National People's Congress Concerning the Implementation of the Nationality Law of the People's Republic of China in the Hong Kong Special Administrative Region (May 15, 1996), <https://perma.cc/J5BK-VXJH>.

cannot be used for immigration clearance and will not be recognized as proof of identity in Hong Kong.¹⁴

B. Taiwan

China claims Taiwan is part of China.¹⁵ Taiwan residents must apply for a travel document issued by the MPS, i.e., the Mainland Travel Permit for Taiwan Residents, to enter mainland China.¹⁶

When applying for the permit, applicants need to present for verification their Taiwan ID card or household registration and the Taiwan exit-entry document, according to the State Council Measures and the NIA service guide on the issuance of the permit.¹⁷ Although it is not clearly stated by the Measures or the NIA service guide, the Taiwan exit-entry document appears to refer to the Taiwan passport (Republic of China passport).¹⁸

C. Palestine

China established diplomatic relations with the State of Palestine in 1988.¹⁹ There is a diplomatic office located in Ramallah, the Office of the PRC to the State of Palestine. According to information provided by its website, the office is accepting Palestinian passports for visa applications of those seeking to enter China.²⁰

III. Recognition of Irregular Passport Extension

There do not appear to be any specific rules on the recognition of an irregular passport extension. According to a question posted on the NIA website in February 2021, China's exit and entry authority was not recognizing the extension of validity for Venezuelan passports, which would cause the overstay of Venezuelan citizens in China. The NIA did not comment on the question but said the individual asking the question had been contacted.²¹

¹⁴ Press Release, HKSAR Government Follows Up on China's Countermeasures Against British Government's Handling of Issues Related to British National (Overseas) Passport (Jan. 29, 2021), <https://perma.cc/DGB7-LN9M>.

¹⁵ *Basic Facts about Taiwan*, PRC State Council (July 28, 2020), <https://perma.cc/JY7S-6Y5U>.

¹⁶ State Council, Measures for the Control of Chinese Citizens Traveling to or from the Region of Taiwan (Dec. 17, 1991, effective June 14, 2015), <https://perma.cc/964Y-UUCW>.

¹⁷ Id. arts. 14, 15; *Service Guide for Issuance of the Mainland Travel Permit for Taiwan Residents*, NIA (Mar. 4, 2019), <https://perma.cc/KK5J-U8JD> (in Chinese).

¹⁸ *How Do People of Taiwan Apply For the Mainland Travel Permit for Taiwan Residents (Commonly Known as the Taiwan Compatriot Permit)?*, Straits Exchange Found. (updated Dec. 11, 2020), <https://perma.cc/6JNB-DFSU> (in Chinese).

¹⁹ *Summary Table of Dates When the People's Republic of China Established Diplomatic Relations with Other Countries*, Ministry of Foreign Aff. (Sept. 2019), <https://perma.cc/S8XP-ATHE> (in Chinese).

²⁰ *Visa Fees and Payment*, Office of the People's Republic of China to the State of Palestine (Mar. 10, 2019), <https://perma.cc/9TTE-NSG8>.

²¹ *Q & A, Resident Permit Application Dismissed Based on Venezuelan Passport Extension*, NIA (Feb. 24, 2021), <https://perma.cc/EMU9-LMG8> (in Chinese).

IV. Issuance of Alternative Travel Documents

No information was located regarding mainland China having issued alternative travel documents to dissidents, refugees, or asylum seekers. Under the PRC Passport Law, the PRC passport is not issued to noncitizens.²² Chinese embassies or consulates may issue an alternative travel document to the passport, the PRC Travel Permit, to Chinese citizens traveling abroad who have lost their passports.²³

A. PRC Travel Permit

In practice, Chinese embassies abroad are also issuing the PRC Travel Permit to residents of Hong Kong, Macao, and Taiwan who do not have the Mainland Travel Permit for Hong Kong and Macao Residents or the Mainland Travel Permit for Taiwan Residents, for their travel to mainland China.²⁴ In addition, according to information provided by the Chinese Embassy in the United States on its website, the PRC Travel Permit may also be issued to Taiwan residents who cannot obtain foreign visas on their Taiwan travel documents.²⁵

B. HKSAR Document of Identity

Hong Kong residents who are not eligible for the HKSAR passport may apply for the HKSAR Document of Identity for Visa Purposes, which can serve as their travel document. A person meeting one of the following requirements is eligible for the document:

- (a) he/she is on limit of stay in the HKSAR and is unable to obtain a national passport or a travel document of any other country or territory;
- (b) he/she is on unconditional stay but does not have the right of abode in the HKSAR, and is unable to obtain a national passport or a travel document of any other country or territory; or
- (c) he/she is not of Chinese nationality who has the right of abode in the HKSAR and holds a permanent identity card of the Region but is unable to obtain a national passport or a travel document of any other country or territory.²⁶

C. Foreigner Exit/Entry Permit

According to the NIA, the Foreigner Exit/Entry Permit may be issued to a foreigner in China who does not hold a valid passport or other international travel document due to reasons including

²² Passport Law art. 13.

²³ Id. art. 23.

²⁴ *Introduction to Chinese Passports and Other Travel Documents*, Chinese Embassy in United States (Feb. 4, 2015), <https://perma.cc/9TK2-M6KW> (in Chinese).

²⁵ Id.

²⁶ *Application for HKSAR Document of Identity for Visa Purposes*, HKSAR Immigr. Dep't (updated Feb. 7, 2020), <https://perma.cc/NN54-JWAQ>.

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loss, damage, theft, or expiration of his or her passport or travel document. The permit is valid for no more than 30 days.²⁷

²⁷ *Notice for Foreigners Applying for Visas and Other Documents*, NIA (May 13, 2020), <https://perma.cc/UQB8-6TX9> (in Chinese).

France

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SUMMARY No French legislation or regulation defines the terms “travel document” or “passport,” although French passports are described in regulatory texts. French regulations require that any foreigner entering French territory hold a travel document fulfilling criteria defined in Regulation (EC) No. 810/2009 of the European Parliament and of the Council of 13 July 2009 Establishing a Community Code on Visas. This travel document must not expire before three months after the expiration of the visa sought by the foreigner.

In a 2011 decision, the European Parliament and the Council of the European Union (EU) tasked the European Commission with establishing, with the assistance of the EU member states, a list of travel documents that allow their holder to cross the European Union’s external borders and that may be stamped with a visa. According to this list, France recognizes passports from the Palestinian Authority, Taiwan, the Hong Kong Special Administrative Region, and the Macao Special Administrative Region. No information was located indicating that France recognized passports issued by any government in exile, interim government, or other alternative government of a country involved in civil war, nor was information located indicating that France recognized any passports issued by a national government that were extended for a period after expiration.

France issues alternative travel documents to refugees, beneficiaries of subsidiary protection, and stateless persons who reside in France. Additionally, French consulates may issue single-use travel documents called *laissez-passer* to foreign residents of France to allow them to return to France if they are stranded abroad without a valid travel document. French consulates may also grant a *laissez-passer* to citizens of an EU member state who fall under the consular protection of France to allow them to return to the EU, or to citizens of a non-EU member state for which France provides consular representation to allow them to return to their home country.

I. Introduction

The entry of foreigners into French territory is principally governed by the Code de l’entrée et du séjour des étrangers et du droit d’asile (CESEDA) (Code of Entry and Stay of Foreigners and Right of Asylum).¹ This Code generally uses the generic term “travel document” (*document de voyage*) rather than the term “passport.” No French legislation or regulation defines either “travel document” or “passport,”² although French passports are described in regulatory texts.³

¹ Code de l’entrée et du séjour des étrangers et du droit d’asile (CESEDA), <https://perma.cc/8MLC-3KE5>.

² Groupe d’information et de soutien des immigrés (GISTI), *Passeports étrangers et autres documents de voyage 2* (2d ed., Jan. 2021).

³ Décret n°2005-1726 du 30 décembre 2005 relatif aux passeports (as amended), <https://perma.cc/93AC-5K9L>.

To enter French territory, a foreigner must hold “the documents and visas required by international agreements and regulations in force.”⁴ French regulations require that any foreigner entering French territory hold a travel document fulfilling the criteria defined in sections (b) and (c) of article 12 of Regulation (EC) No. 810/2009 of the European Parliament and of the Council of 13 July 2009 Establishing a Community Code on Visas.⁵ This travel document must not expire before three months after the expiration of the visa sought by the foreigner.⁶ The criteria defined in sections (b) and (c) of article 12 of Regulation (EC) No. 810/2009 are that it should contain at least two blank pages and should have been issued within the previous 10 years.⁷

In a 2011 decision, the European Parliament and the Council of the European Union tasked the European Commission with establishing, with the assistance of the EU member states, a list of travel documents that allow their holder to cross the European Union’s external borders and that may be stamped with a visa.⁸ This list is available on the website of the European Council.⁹

II. Recognition of Passports Issued by Alternative Governments

According to the list of travel documents established by the European Commission that allow their holder to cross the European Union’s external borders, France recognizes passports from the Palestinian Authority, provided that the holder is officially resident in the Autonomous Areas, and with the caveat that this designation should not be construed as a recognition of a State of Palestine.¹⁰ Additionally, France recognizes ordinary passports from Taiwan, the Hong Kong Special Administrative Region, and the Macao Special Administrative Region.¹¹

Aside from Palestine, no information was located indicating that France recognized passports issued by a government of an area that has proclaimed independence or sovereignty, nor was information located indicating that France recognized passports issued by any government in exile, interim government, or other alternative government of a country involved in civil war.

⁴ CESEDA art. L211-1.

⁵ Arrêté du 10 mai 2010 relatif aux documents et visas exigés pour l’entrée des étrangers sur le territoire européen de la France (as amended) art. 2, <https://perma.cc/TQB4-V6RB>.

⁶ Id.

⁷ Regulation (EC) No. 810/2009 of the European Parliament and of the Council of 13 July 2009 Establishing a Community Code on Visas, art. 12, <https://perma.cc/YM8Q-YVDL>.

⁸ Decision No. 1105/2011/EU of the European Parliament and of the Council of 25 October 2011 on the List of Travel Documents Which Entitle the Holder to Cross the External Borders and Which May Be Endorsed with a Visa and on Setting Up a Mechanism for Establishing This List, art. 2, 2011 O.J. (L 287) 9, <https://perma.cc/98SG-UXBF>.

⁹ *Recognized Travel Documents*, European Council, Council of the European Union, <https://www.consilium.europa.eu/prado/en/prado-recognised-documents.html>.

¹⁰ European Council, Council of the European Union, List of Travel Documents Which Entitle the Holder to Cross the External Borders and Which May Be Endorsed with a Visa, Part I: Travel Documents Issued by Third Countries and Territorial Entities (Mar. 1, 2021), <https://perma.cc/MW2W-62CC>.

¹¹ Id.

III. Recognition of Irregular Passport Extension

No information was located indicating that France recognized any passports issued by a national government that were extended for a period after expiration.

IV. Issuance of Alternative Travel Documents

A. Politically Persecuted Persons

1. Refugees

France issues an alternative travel document for refugees called “Titre de voyage pour réfugié” (Travel Document for Refugee).¹² To qualify for this type of travel document, an applicant must have a valid residency permit and be a refugee under the protection of the Office français de protection des réfugiés et apatrides (OFPRA) (French Office of Protection of Refugees and Stateless Persons).¹³ A “Titre de voyage pour réfugié” may be denied for reasons of public order or national security.¹⁴ This type of travel document may be used to travel anywhere, except to countries where the French government has recognized that the holder has a legitimate risk of being persecuted.¹⁵

2. Asylees under Subsidiary Protection

Similarly, France issues an alternative travel document for individuals granted asylum under subsidiary protection.¹⁶ This document is called “Titre d’identité et de voyage” (Identity and Travel Document), but otherwise it is granted under the same basic conditions as the Travel Document for Refugees: the applicant must have a valid residency permit and be under the protection of the OFPRA.¹⁷ This travel document may be used to travel anywhere, except to countries where the holder would be at risk of execution, torture, or inhumane or degrading treatment, or in physical danger due to an armed conflict.¹⁸ Like the Travel Document for Refugees, the Identity and Travel Document may be denied for reasons of public order or national security.¹⁹

¹² CESEDA art. L753-1.

¹³ Id.

¹⁴ Id.

¹⁵ Id.

¹⁶ Id. art. 753-2.

¹⁷ Id.

¹⁸ Id.

¹⁹ Id.

3. *Stateless Persons*

France issues an alternative travel document for stateless persons called “Titre de voyage pour apatride” (Travel Document for Stateless Person).²⁰ To apply for such a travel document, an applicant must have a valid residency permit and be recognized as stateless.²¹ This travel document allows the holder to travel outside France, but it may be denied or revoked for reasons of public order or national security.²²

B. Other Persons

French consulates may provide single-use travel documents called *laissez-passer* to allow certain foreign citizens to travel to France when they do not otherwise have a valid travel document.²³ This *laissez-passer* can be given to a foreigner who has a valid French residency permit (including, but not limited to, refugees, beneficiaries of subsidiary protection, and stateless persons); foreigners who are authorized to stay in France under a short-stay visa; and foreign children who have been adopted by a citizen or resident of France.²⁴ A *laissez-passer* may also be granted to a citizen of an EU member state who falls under the consular protection of France to allow that person to return to the EU, or to the citizen of a non-EU member state for which France provides consular representation to allow that person to return to his or her home country.²⁵

²⁰ Id. art. 812-7.

²¹ Id.

²² Id.

²³ GISTI, *supra* note 2, at 7-8; Décret n°2004-1543 du 30 décembre 2004 relatif aux attributions des chefs de poste consulaire en matière de titres de voyage (as amended) arts. 5 - 10-1, <https://perma.cc/DYV4-JFNQ>.

²⁴ Décret n°2004-1543 du 30 décembre 2004 relatif aux attributions des chefs de poste consulaire en matière de titres de voyage (as amended) art. 8.

²⁵ Id.

Georgia

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SUMMARY In Georgia, passport and visa regimes are regulated by national legislation and executive regulations. Passports are issued to Georgian citizens travelling abroad and they serve as a main document proving the Georgian nationality of their holders. As a rule, valid passports and entry visas are required for foreign individuals to enter the territory of Georgia. Visas are issued by Georgian Consular Offices abroad, and in some cases by the Ministry of Foreign Affairs inside the country. Georgia does not recognize passports or travel documents issued by any alternative government of an area that had proclaimed independence and sovereignty. In some cases (e.g., Turkish Republic of Northern Cyprus, Kosovo, Palestine), admission of inhabitants of non-recognized jurisdictions is conducted according to international agreements and special permissions of the Georgian government. No information was located regarding the recognition of passport extensions granted by a foreign government after the expiration date of a passport.

The Abkhazia and South Ossetia provinces of Georgia, currently under Russian occupation, declared their independence and issued their own travel documents. These regions were the subjects of Russian Federation policies to issue Russian passports to the local population. From the perspective of Georgia, the inhabitants of these regions are subjects of the same rules as other Georgian citizens. Georgia offers status-neutral travel documents for residents of occupied Abkhazia and South Ossetia regions. Proven visitation of the occupied territories of Georgia without proper authorization from the Georgian side can be a reason for denying admission to visitor to Georgia.

Foreign policy priorities and domestic realities determine Georgia's policy toward admissibility of foreign passports and travel documents. Citizens of 95 countries can enter, reside, work and study in Georgia without the necessity to obtain either a visa or residence permit. The same applies to foreign nationals who are holders of travel documents of the United Nations or its specialized agencies (*laissez-passer*). Special travel documents are provided to refugees and stateless persons legally present in Georgia.

I. Introduction

The Law of Georgia on Legal Status of Aliens and Stateless Persons of March 5, 2014, is the main legal instrument regulating the legal basis and mechanisms for entry, stay, transit, and departure

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of aliens into, in, through, and from Georgia, and defining the rights and obligations of aliens and stateless persons and the procedures for removal of aliens.¹

Article 2 of this law defines “travel document” as “[a] passport or other travel document serving as a passport substitute, as well as an ID recognized by the legislation or international agreements of Georgia that is valid for travelling.”²

Aliens entering in or exiting from Georgia are required to have one of the following documents recognized as grounds for entry and stay in Georgia:

- a) a Georgian visa
- b) a Georgian residence permit
- c) a temporary residence card of a person having a refugee or humanitarian status in Georgia
- d) a temporary identity card
- e) other cases as provided by the legislation of Georgia.³

The Decree of the Government of Georgia on the Regime and Protection Rules of the State Border of December 31, 2013, established the rules and procedures for entry into the territory of Georgia.⁴ The Decree provides that “[t]he citizens of a foreign state shall cross the state border of Georgia with the travel documents and a Georgian visa, unless the international agreement or agreement of Georgia, and the legislation of Georgia do not provide for the rule of visa-free entry into Georgia.”⁵ However, this document does not specify categories of travel documents. In Georgia, the border control is administered by the Ministry of Internal Affairs.

Under the international treaties and national legal acts of Georgia, foreign citizens of 95 countries have the right to enter and stay in Georgia without a visa for one full year.⁶ In addition, the foreigners having a laissez-passer (a travel document issued by the United Nations (UN) or its specialized agencies) can also enter Georgia and stay in the country without a visa for one full year.⁷

In Georgia, the Ministry of Justice, through the Public Service Development Agency, is authorized to issue Georgian passports, travel passports for stateless individuals in Georgia, and ID cards and travel documents for persons with refugee or humanitarian status. The agency’s competence

¹ Law of Georgia on the Legal Status of Aliens and Stateless Persons, No. 2045-IIS, Mar. 5, 2014, entry into force Sept. 1, 2014, consolidated version, <https://perma.cc/29TL-ETV9> (in Georgian), <https://perma.cc/B8A9-BM5W> (in English).

² Id. art. 2, para. F.

³ Id. art. 5.

⁴ Decree of the Government of Georgia on the Regime and Protection Rules of the State Border, Dec. 31, 2013, <https://perma.cc/U6XK-55BW> (in Georgian).

⁵ Id. art. 4, para. 4.

⁶ State Commission on Migration Issues, *Who Can Travel Visa-Free to Georgia*, Migration Commission, <https://perma.cc/C7HZ-4L6V>.

⁷ Ministry of Foreign Affairs of Georgia, *Georgian Visa Information*, GeoConsul.Gov.Ge, <https://perma.cc/355N-QHLY>.

also includes reviewing of issues of acquisition, renewal and termination of citizenship of Georgia and preparation of appropriate adjudications, as well as issues of temporary or permanent residence permits to foreigners, determining the status of stateless persons, and decisions on foreigners' requests to postpone leaving the country.⁸

Visas are issued and extended the Consular Department of the Ministry of Foreign Affairs of Georgia and its offices located abroad. The order of issuance of visas shall be determined by the Ministry of Foreign Affairs of Georgia. Georgian diplomatic missions abroad can provide certain services, delegated by the Ministry of Justice.

The competencies of the Ministry of Foreign Affairs of Georgia include monitoring movement of Georgian citizens over the state borders of Georgia, migration process management, managing records of Georgian citizens abroad, promoting the voluntary and forced return of Georgian citizens and individuals specified in international agreements, issuing entry visas for foreign citizens, implementing visa policies of Georgia, and conducting negotiations on the international agreements on citizens' movement.⁹

The State Commission for Migration Issues of Georgia, established by the Government of Georgia, handles issues of immigration and emigration. The Commission is the Government's consultative body to discuss and make decisions on various important issues related to migration management. The Commission comprises nine government entities' representatives, and is chaired by the Minister of Justice and co-chaired by the Deputy Minister of the Internal Affairs.¹⁰

The legal framework governing foreigners' entry and stay in Georgia and migration issues is set forth in the number of legal instruments and acts:

- Constitution of Georgia¹¹
- Law of Georgia on Georgian Citizenship¹²
- Law of Georgia on Legal Status of Aliens and Stateless Persons¹³

⁸ Public Service Development Agency, Branches of the Public Service Hall, or Community Centre, Products and Services, Ministry of Justice of Georgia (2015), <https://perma.cc/SZK8-7A3T>.

⁹ Ministry of Foreign Affairs of Georgia, Consular Services, E-Applications, Visa (2021), <https://perma.cc/9LL2-M23V>.

¹⁰ State Commission on Migration Issues, *Commission*, Governmental Decree No. 314, Consolidating Reintegration Activities in Georgia (2010), <https://perma.cc/VRY2-C7UA>.

¹¹ Constitution of Georgia, No.786, Aug. 24, 1994, last amended June 29, 2020, consolidated version, Georgian Herald, <https://perma.cc/CJU9-GZNT> (in Georgian).

¹² Law of Georgia on Citizenship, 2319-IIS, Apr. 30, 2014, last amended Oct. 1, 2019, <https://perma.cc/GJ6F-U72Y>.

¹³ Law of Georgia on the Legal Status of Aliens and Stateless Persons, No. 2045-IIS, Mar 5, 2014, entry into force Sept. 1, 2014, consolidated version, <https://perma.cc/29TL-ETV9> (in Georgian), <https://perma.cc/B8A9-BM5W> (in English).

- Law of Georgia on Compatriots Living Abroad and Diaspora Organizations¹⁴
- Law of Georgia on the Procedures of Leaving Georgia and Entering Georgia by Citizens of Georgia¹⁵
- Law on the Rules and Procedures for Georgian Citizens Exiting and Entering Georgia¹⁶
- Law of Georgia on the State Border of Georgia¹⁷
- Law of Georgia on Refugee and Humanitarian Status¹⁸
- Law of Georgia on Combating Human Trafficking¹⁹
- State Commission of Migration, Migration Strategy of Georgia 2016-2020²⁰

II. Recognition of Passports Issued by Alternative Governments

Georgia does not recognize passports or travel documents issued by any alternative government of an area that has proclaimed independence and sovereignty.

The Law of Georgia on Occupied Territories defines the status of territories occupied as a result of the military aggression of the Russian Federation, and provides for a special legal regime on these territories.²¹ Under this law, “[t]he occupied territories and territorial waters” refers to the territory of the Autonomous Republic of Abkhazia, and the Tskhinvali region (the territory of the former Autonomous Republic of South Ossetia). According to article 2, the residents of Abkhazia and South Ossetia can acquire Georgian citizenship (and Georgian passports), or status-neutral ID cards and travel documents.²²

Also, the law prescribes that the “[c]itizens of foreign countries and persons without citizenship shall be prohibited to enter the Occupied Territories from any other directions except the ones

¹⁴ Law of Georgia on Compatriots Living Abroad and Diaspora Organizations, No.5301-IIS, Nov. 24, 2011, last amended June 27, 2018, consolidated version, <https://perma.cc/636S-NC96>.

¹⁵ Law on the Rules and Procedures for Georgian Citizens Exiting and Entering Georgia, No. 804, Dec. 19, 2008 (unofficial translation), <https://perma.cc/L8BZ-B78Q>.

¹⁶ Law on the Rules and Procedures for Georgian Citizens Exiting and Entering Georgia, No. 354, Dec. 7, 1993, last amended Sept. 4, 2020, consolidated version, Official Gazette of Georgia, <https://perma.cc/E6PY-ZXX6> (in Georgian).

¹⁷ Law of Georgia on State Border, July 17, 1998, last amended July 15, 2020, consolidated version, <https://perma.cc/X4LY-C5G5> (in Georgian).

¹⁸ Law of Georgia on Refugee and Humanitarian Status, No. 5370-IIS, Mar. 18, 2011, last amended Dec. 1, 2016, <https://perma.cc/LCF2-S77L>

¹⁹ Law of Georgia on Combating Human Trafficking, No. 2712-IS, Sept. 9, 2010, last amended March 17, 2020, <https://perma.cc/EEV9-WWAA> (in Georgian), <https://perma.cc/A6B6-K2FJ> (in English).

²⁰ Migration Strategy of Georgia 2016-2020, Action Plan 2016-2017, State Commission of Migration, <https://perma.cc/Z98G-Z2K8>.

²¹ Law of Georgia on Occupied Territories, No.431-IIS, adopted on Oct. 30, 2008, consolidated version (July 17, 2015 – June 6, 2018), <https://perma.cc/AAG5-FE3A> (in Georgian), <https://perma.cc/H8AP-FCW3> (in English).

²² Id. arts. 1, 2.

specified in this law; the violation of this requirement shall lead to punishment under the Criminal Law of Georgia.”²³ The law specifies that the territory of the Abkhazian Autonomous Republic shall be entered from the territory of Zugdidi Municipality, and the territory of Tskhinvali region shall be entered from the territory of Gori Municipality.²⁴

Moreover, according to the official website of the Ministry of Reconciliation and Civil Equality of Georgia, individuals working or traveling to Georgia who intend to visit occupied regions are required to notify Georgian authorities about such visits and fill out a notification form.²⁵

The issuance of a status neutral travel document (SNTD) by the Georgian government had been the subject of discussion and debate for many years. According to a report entitled *Comparative Study on Status Neutral Travel Documents*, “[i]nternational law and practice know of a wide range of travel documents. These have typically been created to respond proactively to a variety of particular situations of need and the circumstances prevailing in Abkhazia and South Ossetia prima facie constitute similarly particular situations to which Georgia is responding.”²⁶

In 2010, the Government of Georgia adopted the State Strategy on Occupied Territories. This document stated that the government shall issue the SNTDs for residents of occupied territories of Georgia.²⁷

In July of 2011, the Georgian government introduced the SNTD to facilitate travel for people living in Abkhazia and South Ossetia, and to provide an additional instrument for international travel and engagement opportunities.²⁸

The Ministry of Justice elaborated the procedures for issuance of status-neutral IDs and SNTDs in a decree issued October 11, 2011.²⁹ The Ministry explained that a status-neutral ID is an identity document certifying the identity of a person and his or her residence in Georgia, while an SNTD

²³ Id. art. 4, para. 2.

²⁴ Id.

²⁵ Notification Form, Office of the State Minister of Georgia for Reconciliation and Civil Equality, <https://perma.cc/B2VE-DEJT>.

²⁶ Antje Herrberg, Rainer Hofmann, John Packer, *Comparative Study on Status Neutral Travel Documents*, July 2011, European Forum for International Mediation and Dialogue (mediatEUR), 10-13, 17-20, <https://perma.cc/24LT-PTL4>.

²⁷ Government of Georgia, *State Strategy on Occupied Territories: Engagement Through Cooperation* (2010), <https://perma.cc/SM3K-33RN>.

²⁸ Claire Bigg, *A User's Guide To Georgia's 'Neutral' Passports* (June 7, 2012), Radio Free Europe/Radio Liberty, <https://perma.cc/W4JT-HKKA>.

²⁹ On the Registration of Persons Legally Residing in the Autonomous Republic of Abkhazia and the Tskhinvali region (formerly the South Ossetian Autonomous District), Approval of a Personal Number, Neutral ID card and Registration, Issuance and Revocation of a Neutral Travel Document. No. 133, Oct. 11, 2011, last amended Feb. 15, 2019, <https://perma.cc/6E3D-RRGS> (in Georgian).

is an identity document certifying the identity of a person both inside and outside the territory of Georgia.³⁰

A holder of a status-neutral ID Card must submit the following documents to get an SNTD:

- ID Card
- one photo printed out and in electronic form
- confirmation of service fee payment³¹

A person who holds no status-neutral ID Card must submit the following documents to get an SNTD:

- passport of the former Union of Soviet Socialist Republics
- birth certificate or proof of identity document issued by illegal bodies (authorities) operating in the appropriate occupied territories
- document proving legitimate residence in the occupied territories³²

SNTDs are issued only to persons legitimately residing in Abkhazia and South Ossetia.³³ The holder of a Georgian ID card or passport is not eligible for an SNTD.

The residents of Abkhazia and South Ossetia are considered citizens of Georgia, and thus can travel to the rest of Georgia with the travel documents.³⁴

An advance notification is usually used for traveling for medical reasons. The liaison office (incident prevention group) of the Ministry of Reconciliation, along with the Ministry of Internal Affairs, is in charge of this type of communication.³⁵

On July 17, 2012, the U.S. Department of State began accepting Georgia SNTDs from any resident of Russian-occupied Abkhazia and South Ossetia who chooses to use them for travel or study in the United States.³⁶

³⁰ Id. art. 1.

³¹ Id. arts. 7, 8.

³² Id.; see also Status-Neutral ID or/and Status-Neutral Travel Document, Community Centres, a Public Service Development Agency initiative, the Public Service Development Agency (2016), <https://perma.cc/XR9X-A76Y>.

³³ *Individual, Neutral documents, Neutral Travel Document*, Public Service Hall of Georgia (2017), <https://perma.cc/SBJ3-VD2W>.

³⁴ Government of the Autonomous Republic of Abkhazia, *Biometric Passports of Georgian Citizen: Rules for the Acquisition of a Passport of a Citizen of Georgia by a Person Residing in the Occupied Territory*, <https://perma.cc/Q9L7-FBET>.

³⁵ *Russia, Georgia Agree on Incident Prevention Mechanism*, Xinhua News Agency (Feb. 18, 2009), reproduced at UNOCHA ReliefWeb website, <https://perma.cc/7GEN-YVM8>.

³⁶ U.S. Department of Homeland Security, U.S. Customs and Border Protection, Memorandum: Georgian "status-neutral" travel documents, July 27, 2012, <https://perma.cc/BB7E-7VBY>; U.S. to Recognize 'Status-

A report by a non-governmental organization, the Democracy Research Institute, states that “[a]lthough both regions are recognized by the international community as parts of Georgia, the central government [Georgia] still cannot exercise effective control in these regions” due to the occupation of the Russian Federation, which recognized the occupied territories as “sovereign states” on August 26, 2008. Despite the fact that the residents of occupied territories can acquire different types of travel documents, restrictions on the right to freedom of movement in those regions still make travel difficult.³⁷

A. Abkhazia

Presently, only Russia, Nicaragua, Venezuela, Syria and Nauru have formally acknowledged Abkhazia as an independent state. Neither Abkhazia nor South Ossetia have been recognized by any other UN member country.³⁸ To clarify information on the details of Georgia’s non-recognition policy toward breakaway territories, the author of this report interviewed the Permanent Representative of Georgia to the UN, Ambassador Kakha Imnadze. Ambassador Imnadze observed that “the limited political recognition limits the rights of Abkhazians, as they can’t enjoy the privileges that the inhabitants of any other UN member state take for granted.”

The Law of the Republic of Abkhazia on Citizenship of Republic of Abkhazia appears to be the main legal act regulating the bases, conditions, acquisition, and termination of citizenship of Abkhazia.³⁹

Under this law, any ethnic Abaza or Abkhaz is eligible for Abkhazian citizenship regardless of their place of residence or whether they have a citizenship of a foreign country, except for those who using unconstitutional methods support changing of the sovereign status of Abkhazia, support a violent change of its constitutional system, fought against the existing constitutional system, or are connected to terrorist activities.⁴⁰ Also, the residents of Abkhazia who can prove a minimum of five-year uninterrupted residence from the date of declaration of “independence” on October 12, 1999, can claim Abkhazian citizenship.⁴¹

Article 6 of this law stipulates that dual citizenship is only allowed with the Russian Federation.⁴²

Neutral! Passports From Georgia's Breakaway Regions (June 6, 2012), Radio Free Europe/Radio Liberty, <https://perma.cc/PFQ7-2QVJ>.

³⁷ Manon Bokuchava, Democracy Research Institute, *Restrictions on the Right to Freedom of Movement in Abkhazia and Tskhinvali region/South Ossetia*, at 1 (Aug. 31, 2020), <https://perma.cc/2KXM-M3XG>.

³⁸ *Map: Which Countries Recognized Abkhazia and South Ossetia in 2018?*, (Dec. 13, 2018), Political Geography Now, <https://perma.cc/R7YZ-7V3E>.

³⁹ Law on Citizenship of the Republic of Abkhazia, Oct. 24, 2005, last amended Mar. 17, 2004, Embassy of the Republic of Abkhazia to the Russian Federation, <https://perma.cc/7SV8-TN2C> (in Russian).

⁴⁰ *Id.* art. 5, paras. 1, 2.

⁴¹ *Id.*

⁴² *Id.* art. 6.

Recognition of Foreign Passports: Georgia

The Republic of Abkhazia issued its first passports and travel documents in 1999. However, in 2014 local authorities decided to issue new Abkhazian passports. The process of issuance of passports started in 2016, and was supposed to end in 2019, but the authorities claimed there had been an insufficient number of demands for new passports by that time and continued to issue them.⁴³

Traveling to the Russian Federation with a new Abkhazian passport is permitted, but the residents prefer to use Russian passports for travelling. As a practical matter, for Abkhazians to travel, the main route to the world goes through Russia.⁴⁴ For example, residents of Abkhazia rely on Russia's Sochi International Airport for air travel, as the long-closed airport in Sukhum remains out of use.⁴⁵

Residents of the Georgian breakaway territory of Abkhazia represent diverse ethnicities. The Gali district is populated by predominantly ethnic Georgians, who maintain close kin and economic relations with an adjacent region called Samegrelo, a province of Georgia.⁴⁶ Most ethnic Georgian residents of Abkhazia maintain Georgian citizenship despite the fact that it is outlawed by the de-facto government. The procedures for acquisition of the so-called Abkhaz passports are discriminatory to ethnic Georgians because the Abkhazian citizenship law requires that to replace old passports with the updated ones, applicants must prove they lived in Abkhazia between 1994 and 1999.⁴⁷

Local officials warned Gali ethnic Georgians against attempting to hold both old and new passports amidst complaints of bureaucratic hurdles in obtaining residency permits. The other ethnicities residing in Abkhazia, including Armenians and Russians, share the same grievances as ethnic Georgians when it comes to the requirements of obtaining the Abkhaz passport.⁴⁸

In parallel, the Russian Federation conducted deliberate policies of "passportization" of Abkhazia (that is, requiring residents to obtain and rely on Russian passports). The first wave started in 2002, when a new Citizenship Law of the Russian Federation entered into force.⁴⁹

⁴³ *There is No Demand: A New Abkhazian Passport Will Not Be Issued to Everyone by the End of the Year* (June 9, 2018), Sputnik Abkhazia, *Абхазия*, <https://perma.cc/3RW2-PZZ5> (in Russian).

⁴⁴ Thomas de Waal, *Abkhazia and the Danger of "Ossetianization,"* Moscow Times (July 16, 2019), reproduced on Carnegie Europe website, <https://perma.cc/M2MQ-DWG8>.

⁴⁵ Joshua Kucera, *Abkhazia Announces Plans to Reopen Airport*, Eurasianet (July 30, 2019), <https://perma.cc/YB3W-W768>.

⁴⁶ *There is No Demand: A New Abkhazian Passport Will Not Be Issued to Everyone by the End of the Year*, supra note 43.

⁴⁷ Human Rights Watch, *Living in Limbo, Rights of Ethnic Georgians Returnees to the Gali District of Abkhazia*, HRW (July 11, 2011), <https://perma.cc/85R9-WBE7>.

⁴⁸ Stella Adleyba, *Equal and more equal: Abkhazia's Passport Policy*, OC Media (Feb.22, 2019), <https://perma.cc/6S5J-RLBQ>.

⁴⁹ Peter Roudik, Law Library of Congress, Russian Federation: Legal Aspects of War in Georgia (Sept. 2008), <https://perma.cc/MLL4-N8WJ>.

Prior to that, the Congress of Russian Communities of Abkhazia started collecting the Soviet passports from residents and returning them with a new page inserted certifying citizenship of the Russian Federation.⁵⁰

In 2002, in addition to 50,000 residents who already possessed Russian citizenship, 150,000 new residents of Abkhazia had acquired Russian citizenship via passportization.⁵¹ The second wave of 'passportization' started right after Russian-Georgian war, in August of 2008.⁵²

B. South Ossetia

Possession of citizenship of the Republic of South Ossetia—State of Alania⁵³ is required for obtaining a South Ossetian passport. The Law on Citizenship is the main legal act regulating this procedure.⁵⁴

According to this law, any individual who held citizenship prior to the law's adoption is automatically considered to be a citizen of South Ossetia regardless their current residence.⁵⁵ Also, residents of South Ossetia who can prove residence of a minimum of five years prior to the declaration of independence on May 29, 1992, and did not participate in the "anti-constitutional activities against the political system or people of South Ossetia" are automatically citizens.⁵⁶

Article 6.1 provides for the right of South Ossetians to acquire Russian citizenship in addition to their domestic South Ossetian citizenship. Also the knowledge of the Ossetian or Russian languages is required for citizenship.⁵⁷

The Law of Citizenship is not recognized by the Georgian authorities.⁵⁸

According to the Ministry of Foreign Affairs of South Ossetia, entry to the Republic of South Ossetia is performed only through the territory of the Russian Federation. A visa-free regime for

⁵⁰ Id.

⁵¹ Inal Khashig, *Abkhaz Rush For Russian Passports*, Institute for War and Peace Reporting (June 27, 2002), <https://perma.cc/7RDS-7QRN>.

⁵² Paul A. Goble, *Russian 'Passportization'*, NY Times Blog (Sept. 9, 2009), <https://perma.cc/NC9P-LVG9>.

⁵³ In Georgian and most international documents (and throughout this report) this territory is known as the South Ossetia-Tskhinvali Region, or simply South Ossetia. In the law discussed here, the de facto authorities use the name Republic of South Ossetia—State of Alania.

⁵⁴ Constitutional Law of the Republic of South Ossetia on Citizenship of South Ossetia, No. 75, Feb.18, 1995, last amended Aug. 23, 2006, State Information Agency RES, (2004-2021), <https://perma.cc/Z89T-SU64>, additions and amendments of Apr. 11, 2008, <https://perma.cc/3XK6-LLPA> (in Russian).

⁵⁵ Id. art. 5.

⁵⁶ Id.

⁵⁷ Id. art. 6, para. 1.

⁵⁸ Albina Kokoeva, *Citizenship of South Ossetia: How to Get It, Methods, Conditions* (Oct. 27, 2017), Republic of South Ossetia Official Site, <https://perma.cc/6QM5-G8E3>.

citizens of the two states has been established between the Republic of South Ossetia and the Russian Federation.⁵⁹

On May 17, 2011, the de-facto government of the South Ossetia introduced the “South Ossetia Passport.”⁶⁰

Before the 2011, passports of the Russian Federation were largely available for residents of Georgian province of South Ossetia. According to local officials, 95% of population of South Ossetia have Russian citizenship.⁶¹

Notably, according to “the article 62 of the Constitution of Russian Federation, citizens of Russian Federation can have dual citizenship, but on the territory of Russian Federation they are considered as Russian citizens. Hence, [South Ossetian] and Russian dual citizenship remains in the legal limbo due to the absence of proper agreement between two sides on dual citizenship.”⁶²

On February 1, 2010, the Russian Federation and South Ossetia signed the visa-free agreement, allowing citizens of each side to travel to respective countries without visa, and with personal IDs or travel documents.⁶³ Nevertheless, according to diplomatic note of the Russian Federation of March 18, 2020, citizens of South Ossetia can travel to the Russian Federation only with Russian passports.⁶⁴ The Russian authorities tend to consider residents of the South Ossetia as the citizens of the Russian Federation. The representatives of relevant departments of South Ossetia indicate that the problem of South Ossetians who lack Russian passports could be solved only with the ratification of the agreement on dual citizenship with Russia.⁶⁵

⁵⁹ Ministry of Foreign Affairs, South Ossetia, *Entry Procedures for Foreign Citizens Arriving to the Republic of South Ossetia*, <https://perma.cc/J4KH-RYA5> (in Russian).

⁶⁰ Resolution of the Government of the Republic of South Ossetia on the Measures of Passportisation in South Ossetia, No. 74, May 17, 2011, News, State Information Agency 'RES', (May 21, 2011), <https://perma.cc/Z6RX-XKFX> (in Russian).

⁶¹ Peter Roudik, Report, *supra* note 49.

⁶² Dzerassa Gagloeva, *On Citizenship of South Ossetia and Some Issues Related to the Adoption of Russian Citizenship* (Feb. 9, 2018), Republic of South Ossetia Official Site, <https://perma.cc/7CDW-53LR> (in Russian).

⁶³ Agreement between the Government of the Russian Federation and the Government of South Ossetia on the Mutual Visa Free Travel for Citizens of the Russian Federation and South Ossetia, Ministry of Foreign Affairs of the Russian Federation (Feb. 1, 2010), <https://perma.cc/37Y6-47N7> (in Russian).

⁶⁴ *Residents of South Ossetia will be Able to Get to Russia Only with a Russian Passport* (Mar. 17, 2020), Sputnik, South Ossetia, <https://perma.cc/8Y4D-ND28> (in Russian).

⁶⁵ Irina Kelekhsaeva, *South Ossetia: Pitfalls of Dual Citizenship* (Feb. 11, 2019), Echo of the Caucasus, *Эхо Кавказа*, RFE/RL, <https://perma.cc/MAV6-NXGT> (in Russian).

C. Kosovo

Georgia does not recognize Kosovo's independence; hence its passport is not considered as a legal document for travel.⁶⁶

Nevertheless, under special circumstances, athletes and artists from Kosovo have been admitted to Georgia to participate in international events.⁶⁷ For example, in 2015, Kosovar athletes participated in the international Youth Olympic Festival in Georgia. In order to allow them to entry Georgia, the government of Georgia issued a special decree listing actions to be taken in connection with the participation of the Kosovo delegation in the festival.⁶⁸

D. Turkish Republic of Northern Cyprus

Georgia enjoys a strategic partnership with the Republic of Turkey, but does not recognize the Turkish Republic of Northern Cyprus. Georgian official information available online does not provide any information on traveling with a passport of the Turkish Republic of the Northern Cyprus to Georgia.

III. Recognition of Irregular Passport Extensions

No information was located regarding Georgia having recognized passport extensions granted by a foreign government after the expiration date of a passport.

IV. Issuance of Alternative Travel Documents

Issues related to obtaining asylum in Georgia are regulated by the Law of Georgia on International Protection.⁶⁹ This Law provides for different forms of international protection, including refugee status, humanitarian status, and status of a person under temporary protection.⁷⁰ Georgia's travel documents can be issued for stateless persons, refugees, and persons with humanitarian status after obtaining such status.

A. Stateless Persons

In Georgia, a stateless person is one who is not recognized as a citizen of any state. In Georgia, the status of a stateless person is determined by the Public Service Development Agency. To

⁶⁶ George Friedman, *Georgia and Kosovo: A Single Intertwined Crisis*, Stratfor (Aug. 25, 2008), <https://perma.cc/TE5Q-TUU9>.

⁶⁷ *What Will Happen if Georgia and Kosovo Reach the Final? - When Georgia Does Not Recognize the Independence of Kosovo* (Nov. 25, 2019) SportHall.GE, <https://perma.cc/5F2R-YMGE> (in Georgian).

⁶⁸ Decree of the Government of Georgia, No. 1552 of July 16, 2015, on the Actions to be Taken in Connection with the Participation of the Kosovo Delegation in the 2015 European Youth Olympic Festival, <https://perma.cc/HJ58-P8N3> (in Georgian).

⁶⁹ Law of Georgia on International Protection, No.42-IS, Dec. 1, 2016, consolidated version, <https://perma.cc/2TH2-RL9A> (in Georgian), <https://perma.cc/RTN5-QYNQ> (in English).

⁷⁰ Id. art. 1.

determine the status, a person has to submit an application to any territorial office of the Public Service Development Agency, branch of the Public Service Hall, or Community Centre. A positive decision on the status of a stateless person means that a residence permit is automatically granted to the person. After acquiring a residence permit, a stateless person can obtain a travel passport so that he or she can leave Georgia, travel abroad, and re-enter Georgia.⁷¹ As with the application to determine stateless status, an application for a travel passport may be submitted to a territorial office of the Public Service Development Agency, branch of the Public Service Hall, or Community Centre.⁷² Additional information on the status of a stateless person and issuance of relevant documents is available on the websites of these offices.⁷³

B. Refugee

In Georgia, refugee status shall be granted to an alien or stateless person who is outside their country of origin due to well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion, and is unable, or owing to such fear is unwilling, to avail himself of the protection of the country of his or her origin. If a person who is legally staying in Georgia seeks a status of a refugee, he or she must apply to the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia in person.⁷⁴

C. Humanitarian Status

In Georgia, humanitarian status shall be granted to an alien who does not qualify as a refugee but for whom there are reasons to believe that upon return to the country of origin he or she will face a risk of suffering serious harm. The Georgian legislation defines humanitarian status as one that is granted to a person who is neither a Georgian citizen nor a stateless person permanently residing in Georgia and who,

- Was forced to leave his or her country of origin due to violence, external aggression, occupation, internal conflicts, mass violation of human rights or significant breach of public order;
- Under international legal obligations assumed by Georgia, cannot be returned to his or her country and cannot travel to another country;
- Cannot return to the country of origin because his/her life, safety, and human rights may be seriously endangered;

⁷¹ Id., see Law on Humanitarian Status.

⁷² Community Centres, a Public Service Development Agency initiative, Community Centres, E-Services, (2016), <https://perma.cc/KCZ9-BHPD>.

⁷³ See, e.g., Public Service Development Agency, Distance Services, <https://perma.cc/QY4K-KK3W>.

⁷⁴ Law of Georgia on Internally Displaced Persons from the Occupied Territories of Georgia, No.1982-IIS, Feb. 6, 2014, consolidated version (Apr. 30, 2014 - June 13, 2018), <https://perma.cc/BZC5-KECK>; Internally Displaced Persons' Issues, Ministry of Internally Displaced People from the Occupied Territories, Accommodation and Refugees of Georgia, <https://perma.cc/75LZ-DN3R>.

Recognition of Foreign Passports: Georgia

- Was forced to move inside Georgia, but is not eligible to the refugee status according to the Law of Georgia on Internally Displaced Persons;
- Entered Georgia from a neighboring country of origin due to a disaster occurred there;
- Requires other justified humanitarian assistance.⁷⁵

Humanitarian status is granted for one year, and may be extended if the grounds for the status still exist. In case of illegal crossing of the Georgian state border, a person shall, within 24 hours, apply to the very first state entity with a request for asylum.

The Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia published statistics on the number of applications by countries of origin of applicants. Through 2017, 1,505 individuals received humanitarian and refugee protection in Georgia.⁷⁶

⁷⁵ Law of Georgia on Refugee and Humanitarian Status, No. 5370-IIS, Mar. 18, 2011, last amended Dec. 1, 2016, art. 2, <https://perma.cc/LCF2-S77L>.

⁷⁶ Statistics of the Individuals with Different Status in Georgia of Dec. 31, 2017, State Migration Commission, <https://perma.cc/44YG-VT3R>.

Germany

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SUMMARY Foreigners may enter or stay in Germany only if they possess a recognized and valid passport or passport substitute. The Federal Ministry of the Interior is the competent authority to recognize passports and passport substitutes in consultation with the Foreign Ministry. A 2016 general administrative order lists recognized and non-recognized passports and passport substitutes; however, inclusion in the list does not mean that Germany recognizes the issuing authority under international law or as a legitimate government. Germany recognizes certain passports issued by the Palestinian National Authority, by Taiwan, and by the Chinese special administrative regions of Hong Kong and Macau. The only recognized irregular passport extensions that were identified were passport extensions with an ink stamp granted by Yemini diplomatic missions.

Germany issues travel documents to foreigners meeting certain conditions. These foreigners generally fall into one of the following three categories: (1) foreign nationals of third countries that are unable to obtain a travel document from their country of origin, (2) refugees, or (3) stateless persons. In addition, certain foreigners are issued emergency travel documents and European travel documents (*EU-Laissez Passer*).

I. Introduction

In general, foreigners may enter or stay in Germany only if they possess a recognized and valid passport or passport substitute.¹ Exemptions to the passport requirement may be codified in a statute or permitted by the Federal Ministry of the Interior or a body designated by it on a case-by-case basis, such as in cases of family reunification.² In 2010, the Federal Ministry of the Interior designated the Federal Office for Migration and Refugees (Bundesamt für Migration und Flüchtlinge, BAMF) as the body to grant exemptions.³

The Federal Ministry of the Interior or a body designated by it is also the competent authority to recognize passports and passport substitutes in consultation with the Foreign Ministry.⁴ Decisions on which types of passports and passport substitutes from which countries or other entities are recognized are issued as general administrative orders and published in the Federal

¹ Aufenthaltsgesetz [AufenthG], Feb. 25, 2008 Bundesgesetzblatt [BGBl.] I at 162, as amended, § 3, <https://perma.cc/4BN7-A2JM> (original), <https://perma.cc/VXC7-DESJ> (English translation, updated through Feb. 17, 2020.)

² Id. § 3, para. 1, sentence 1, § 3, para. 2.

³ Oliver Maor, *AufenthG § 3 Passpflicht*, in *BeckOK Ausländerrecht* (Winfried Kluth & Andreas Heusch eds., 28th ed., 2021), para. 33.

⁴ AufenthG, § 71, para. 6.

Gazette (*Bundesanzeiger*).⁵ In 2016, a general administrative order that consolidated all previous orders was published.⁶ In addition, recognized passport substitutes are those that Germany is required to recognize under international law or European Union (EU) law.⁷ Examples are in particular travel documents for refugees and travel documents for stateless persons, among others.⁸

However, Germany does issue travel documents to foreigners if certain conditions are fulfilled as detailed below. These foreigners generally fall into one of the following three categories: (1) foreign nationals of third countries that are unable to obtain a travel document from their country of origin,⁹ (2) refugees, or (3) stateless persons.

II. Recognition of Passports Issued by Alternative Governments

The 2016 general administrative order is divided into a general introduction with definitions and two annexes. Annex I lists recognized passports and passport substitutes, whereas annex II contains those that are not recognized. The introduction explicitly states that naming an issuing authority in the annex does not result in its recognition under international law by Germany. Likewise, recognition of passports or passport substitutes does not result in the recognition of a certain administrative authority or administration as a country, as the legitimate government of a country, or as the legitimate administration of a regional authority.¹⁰

A. Recognized Passports

Passports and passport substitutes issued by Iraq in the period after March 19, 2003, must have a seal from the Coalition Provisional Authority (CPA) to be recognized.¹¹ Passports from 2004, 2006, and 2009 are also recognized.¹² Documents that have been issued since January 1, 2015, in ISIS-occupied territories, in particular in the Al-Anbar province and the city Mosul, are not valid in Germany.¹³

Even though Germany does not recognize Palestine as an independent state, it appears from the 2016 consolidated general administrative order that Germany recognizes certain passports and

⁵ Id.

⁶ Bundesministerium des Innern [BMI], Allgemeinverfügung über die Anerkennung eines ausländischen Passes oder Passersatzes, Apr. 6, 2016, *Bundesanzeiger Allgemeiner Teil* [BAnz AT], Apr. 25, 2016, at B1, <https://perma.cc/L4XN-77TX>.

⁷ Aufenthaltsverordnung [AufenthV], Nov. 25, 2004, BGBl. I at 2945, as amended, § 3, <https://perma.cc/LMF2-98CA>.

⁸ Id. § 3, para. 3.

⁹ The term “third country” refers to a non-European Union (EU) country.

¹⁰ BMI, *supra* note 6, at 2, no. 8.

¹¹ The CPA was dissolved in 2004, but the 2016 order still references the requirement for a CPA seal.

¹² BMI, *supra* note 6, at 17.

¹³ Id.

travel documents issued by the Palestinian National Authority. The identification number of the passport or travel document in question must start with the number 4, 8 or 9 to be recognized.¹⁴ In addition, VIP passes issued to prominent officials of the Palestinian National Authority are recognized.¹⁵

Furthermore, passports issued by Taiwan and the Chinese special administrative regions of Hong Kong and Macau are recognized.¹⁶ For Taiwan, diplomatic passports, official passports, consular passports, and certificates of entry permit are recognized in addition to regular passports. However, certificates of entry permit are only valid for purposes of transit as well as a stay in Germany with subsequent departure from Germany.¹⁷ For Hong Kong, Germany additionally recognizes documents of identity for visa purposes.¹⁸ For Macau, travel permits with a blue-purple binding are recognized.¹⁹

Lastly, Kosovo travel documents issued by the United Nations Interim Mission in Kosovo (UNMIK) are recognized until further notice; however, their validity expires at the latest when the UN mandate ends.²⁰ The 2016 order notes that since July 21, 2008, no more applications have been accepted and that already issued Kosovo travel documents remain valid until their respective expiration date.²¹

B. Non-Recognized Passports

The 2016 order explicitly states that passports and passport extensions issued by the Turkish-Cypriot administration of Northern Cyprus are not recognized.²² Likewise, passports for the Turkish Republic of Northern Cyprus issued by Turkey are not recognized.²³

With regard to Afghanistan, Germany does not accept passports and passport substitutes issued by Taliban authorities.²⁴

For Syria, passports and passport substitutes that have been issued since January 1, 2015, in Deir ez-Zor, Raqqa, Hasakah, and al-Haskeh province are not recognized.²⁵

¹⁴ Id. at 53.

¹⁵ Id.

¹⁶ Id.

¹⁷ Id.

¹⁸ Id.

¹⁹ Id.

²⁰ Id.

²¹ Id.

²² Id. at 54.

²³ Id. at 69.

²⁴ Id. at 55.

²⁵ Id. at 44.

For Yemen, passports and passport substitutes of the former Yemen Arab Republic and the People's Democratic Republic of Yemen (South Yemen) are no longer considered valid.²⁶

III. Recognition of Irregular Passport Extension

Germany recognizes passport extensions with an ink stamp granted by Yemini diplomatic missions provided the requirements of article 6, paragraph 1 of the EU Schengen Borders Code are fulfilled.²⁷

However, Nigerian passports that were extended with an ink stamp are no longer recognized.²⁸

IV. Issuance of Alternative Travel Documents

Germany issues travel documents to foreigners if certain conditions are fulfilled. These foreigners generally fall into one of the following three categories: (1) foreign nationals of third countries that do not have a passport and are unable to obtain a travel document from their country of origin, (2) refugees, or (3) stateless persons. The requirements for issuing travel documents to such people are set out in the Residence Ordinance (*Aufenthaltsverordnung, AufenthV*).²⁹

A. Politically Persecuted Persons

Germany is a state party to the Geneva Convention Relating to the Status of Refugees of 1951³⁰ and the 1954 Convention Relating to the Status of Stateless Persons³¹ and has implemented them into German law.³² In accordance with article 28 of the respective convention, Germany issues travel documents to recognized refugees and stateless persons.³³ These two travel documents are explicitly named in the Residence Ordinance as travel documents that can be issued to foreigners.³⁴ The costs are 60 Euros (about US\$71) or 38 Euros (about US\$45) for applicants up to

²⁶ Id. at 20.

²⁷ Id. at 20; Schengen Borders Code, 2016 O.J. (L 77) 1, <https://perma.cc/386Y-B7LC>.

²⁸ BMI, *supra* note 6, at 34 & 65.

²⁹ *AufenthV*, *supra* note 7.

³⁰ Convention Relating to the Status of Refugees [Refugee Convention], July 28, 1951, 19 U.S.T. 6259, 189 U.N.T.S. 137, <https://perma.cc/9EJB-SFGX>.

³¹ Convention Relating to the Status of Stateless Persons [Stateless Persons Convention], Sept. 28, 1954, 360 U.N.T.S. 117, <https://perma.cc/24JM-BBZF>.

³² Gesetz betreffend das Abkommen vom 28. Juli 1951 über die Rechtstellung der Flüchtlinge, Sept. 1, 1953, BGBl. II at 559, <https://perma.cc/AH3D-JSB2>; Gesetz betreffend das Abkommen vom 28. September 1954 über die Rechtsstellung der Staatenlosen, Apr. 12, 1976, BGBl. II at 473, <https://perma.cc/SYJ6-99T6>.

³³ Refugee Convention, art. 28; Stateless Persons Convention, art. 28; *AufenthV*, § 4, para. 1, nos. 3, 4, § 4, paras. 3, 4.

³⁴ *AufenthV*, § 1, paras. 3, 4, § 4, para. 1, nos. 3, 4.

24 years.³⁵ They are valid for three years and cannot be extended.³⁶ A note can be included in the travel document if there are serious doubts as to the details of the identity of the applicant.³⁷

Asylum seekers who do not have a passport may be able to receive a “Travel Document for Foreigners” under the same conditions as other foreigners as detailed below.

B. Other Persons

1. Travel Documents for Foreigners

Germany also issues “Travel Documents for Foreigners” (*Reiseausweis für Ausländer*) to foreigners who do not possess a passport or passport substitute and cannot be reasonably expected to obtain one.³⁸ The Residence Ordinance contains a non-exhaustive list of what is considered “reasonable.”³⁹ In particular, the applicant is expected to

- apply for a new passport or a passport extension with the competent authorities in a timely manner;
- cooperate with the competent authorities by providing all information needed to confirm the applicant’s identity and other information;
- comply with the duty to perform compulsory military service and other duties incumbent on citizens; or
- pay the general passport fees.

In addition, German courts have held that foreigners can reasonably be expected to hire an attorney in their country of origin to obtain a new passport.⁴⁰ The burden of proof for showing that there was no reasonable way to obtain a passport is on the foreigner.⁴¹

A Travel Document for Foreigners will generally not be issued if the country of origin refused to issue a passport due to a reason that would also be a reason to deny a passport under German law.⁴² In addition, a passport should not be issued if the applicant has misused a Travel Document for Foreigners in the past or if there are factual indications that it will be misused, in particular to

³⁵ AufenthV, § 48, para. 1, nos. 1c, 1d.

³⁶ Id. § 4, para. 1, sentence 2.

³⁷ Id. § 4, para. 6.

³⁸ Id. § 4, para. 1, no. 1, § 5, para. 1.

³⁹ Id. § 5, para. 2.

⁴⁰ Oberverwaltungsgericht NRW [OVG NRW], June 5, 2008, docket no. 18 E 471/08, ECLI:DE:OVGNRW:2008:0605.18E471.08.00, <https://perma.cc/ZDJ2-HEM5>.

⁴¹ Hessischer Verwaltungsgerichtshof [HessVGH], Aug. 1, 2016, docket no. 3 A 959/16.Z, ECLI:DE:VGHHE:2016:0801.3A959.16.Z.0A, <https://perma.cc/FDP2-76ZK>.

⁴² AufenthV, § 5, para. 3.

commit a crime. An indication would be that the applicant claims to have lost his passport substitute several times.⁴³

The travel document will only be issued if the foreigner possesses a German residence permit or will be issued a residence permit together with the travel document or to enable the foreigner to leave Germany permanently.⁴⁴ If the application is submitted abroad, a travel document will only be issued to allow the foreigner to enter Germany if the general requirements to issue a residence permit are fulfilled.⁴⁵ If the foreigner is an asylum-seeker, a travel document will only be issued if there is an urgent public interest, an urgent reason, or if the denial would constitute undue hardship, and if the asylum procedure will not be jeopardized.⁴⁶

In general, the travel document cannot be valid longer than the residence permit.⁴⁷ For applicants younger than 24 years, the validity cannot exceed six years. For applicants older than 24 years, ten years is the maximum period of validity.⁴⁸

2. *Emergency Travel Documents and Laissez-Passer*

Certain foreigners, in particular EU citizens, citizens of the European Economic Area (EEA), and Swiss citizens, may be eligible to receive emergency travel documents to avoid undue hardship or if there is substantial public interest.⁴⁹

Lastly, a European travel document (*EU-Laissez Passer*) may be issued for the return of third-country nationals who do not fulfil or no longer fulfil the conditions for entry, stay, or residence in one of the EU member states.⁵⁰

⁴³ Id. § 5, para. 4.

⁴⁴ Id. § 6, sentence 1, nos. 1-3.

⁴⁵ Id. § 7.

⁴⁶ Id. § 6, sentence 1, no. 4.

⁴⁷ Id. § 8, para. 1.

⁴⁸ Id.

⁴⁹ Id. § 13.

⁵⁰ Id. § 1, para. 8, 4, para. 1, no. 7; Regulation (EU) 2016/1953, art. 3, 2016 O.J. (L 311) 13, <https://perma.cc/Z6PB-C484>.

Iraq

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Foreign Law Specialist

SUMMARY The Republic of Iraq was the only Arab country that did not sign the ceasefire agreement after the Arab-Israeli war in 1948. Iraq recognizes only the State of Palestine and passports issued by the Palestinian Authority of the West Bank. It does not recognize the State of Israel and Israeli passports.

In contrast with neighboring Turkey, Iraq does not recognize passports issued by the Northern Cyprus Republic. Iraqi authorities also do not recognize any documents or passports issued by the Islamic State of Iraq and Syria (ISIS).

It appears that the Iraqi Passport Authority has not issued a regulation that provides a list of recognized and unrecognized passports.

Law No. 26 of 1961 on Travel Documents for Palestinians regulates the requirements for issuing Iraqi travel documents to Palestinian refugees residing in Iraq who do not hold a passport issued by the Palestinian Authority.

I. Introduction

The Republic of Iraq joined other Arab countries in the war against the newly established state of Israel during the Arab-Israeli War in 1948. In 1949, Iraq was the only Arab country that did not sign the ceasefire agreement.¹

Iraqi government agencies, including the foreign ministry, have reiterated Iraq's support for the State of Palestine. The foreign ministry has asserted what it has called "Iraq's historic and fundamental stance on the Palestinian cause." The ministry has also announced its support for what it has described as the rights of the Palestinian people to liberate their land to establish an independent Palestinian state with al-Quds (Jerusalem) as its capital.²

II. Recognition of Passports Issued by Alternative Governments

The Republic of Iraq recognizes the State of Palestine and passports issued by the Palestinian Authority, which supervises the West Bank.³ The Iraqi capital of Baghdad contains an embassy of the State of Palestine,⁴ and Law No. 76 of 2017 on the entry of foreigners does not exempt

¹ Peace Research Centre Prague, *Iraq vs. Israel: 1973 – Ongoing by 2011*, <https://perma.cc/6LT4-8JK4>.

² *Iraq Confirms Support for Palestinian State*, Xinhua (Jan. 3, 2019), <https://perma.cc/N4ND-JQ7P>.

³ *Consular Affairs*, Embassy of the State of Palestine in Iraq (Nov. 19, 2014), <https://perma.cc/226M-3N92> (in Arabic).

⁴ Embassy of the State of Palestine in Iraq, Homepage, <https://perma.cc/4R4P-HRF4> (in Arabic).

Palestinians from obtaining an entry visa before entering Iraq.⁵ The Iraqi Parliament also has a permanent committee named the “Committee on the State of Palestine.”⁶

At the same time, Iraq does not recognize the State of Israel.⁷ Iraq is among 30 countries worldwide that still do not recognize Israeli passports.⁸ In a recent statement, the spokesperson of the Iraqi prime minister argued that the Iraqi Constitution prohibits the normalization of relations with what he called “the Zionist Entity,” referring to the State of Israel.⁹ Additionally, the Iraqi Penal Code punishes Iraqi citizens who work or deal with “Zionist organizations.” Article 201 of the Code punishes with life imprisonment any person who works with a “Zionist organization” or promotes Zionist principles. Before 2003, the penalty for working with “Zionist organizations” or promoting Zionist principles was death.¹⁰

Israeli passports are not the only ones that are not recognized by the Iraqi government. In contrast with neighboring Turkey, Iraq does not recognize the Northern Cyprus Republic.¹¹ Moreover, the Iraqi authorities do not recognize passports or documents issued by the Islamic State of Iraq and Syria (ISIS).¹² In 2014, it was reported that ISIS had announced the issuance of a new passport, called the “Caliphate Passport,” which would be distributed to 11,000 persons living in areas that previously were under ISIS’s control from 2014–17.¹³

It appears that the Iraqi Passport Authority has not issued regulations providing a list of recognized and unrecognized passports.

III. Recognition of Passports and Official Documents

The Republic of Iraq recognizes all passports and official documents issued by the consulate service of the State of Palestine in Baghdad. The consulate’s main objective is to coordinate

⁵ Law No. 76 of 2017 on the Entry and Residence of Foreigners, al-Waqā’i’ al-’Irāqīyah [Official Gazette], vol. 4466, 23 Oct. 2017, <https://perma.cc/NH75-8N8M> (in Arabic).

⁶ Tarikh al-Nashr, *The Establishment of a Permanent Committee on Palestine in the Iraqi Parliament*, Palestine News and Info Agency (Wafa) (Dec. 30, 2015), <https://perma.cc/Q3GU-RXXP> (in Arabic).

⁷ Alessandro Bruno, *Iraq Faces Pressure to Normalize Ties with Israel and Abandon Palestinians*, Inside Arabia (Oct. 19, 2020), <https://perma.cc/8TWH-5PDL>.

⁸ Sabir Shah, *30 Countries, Including Pakistan, Still Do Not Recognize Israel*, International News (Aug. 22, 2020), <https://perma.cc/WLE2-EE76>.

⁹ *Iraq: The Constitution Provides for the Prohibition of Normalization with the Occupation*, Tehran Arabic Radio (Nov. 3, 2020), <https://perma.cc/BHJ6-HXHS> (in Arabic).

¹⁰ Law No. 111 of 1969 on the Penal Code art. 201, as amended by Coalition Provisional Authority (CPA) Order No. 7 of 2003, <https://perma.cc/Z8XY-3GH9>.

¹¹ Office of the Historian, Foreign Service Institute, U.S. Department of State, *A Guide to the United States’ History of Recognition, Diplomatic, and Consular Relations, by Country, since 1776: Cyprus*, <https://perma.cc/GSC3-R6XP>.

¹² Human Rights Watch, *Iraq: Families of Alleged ISIS Members Denied IDs* (Feb. 25, 2018), <https://perma.cc/DMD5-RUEL>.

¹³ *ISIS Allegedly Issues ‘Caliphate’ Passport*, Al Arabiya News (July 5, 2014), <https://perma.cc/L25P-XAQS>.

between Palestinians residing in Iraq and Iraqi government agencies. The consulate also assists in facilitating services provided by various Iraqi government bodies to Palestinians residing in the country.¹⁴

IV. Issuance of Alternative Travel Documents

The Republic of Iraq issues travel documents for Palestinian refugees who came to Iraq between 1948 and 1967. Palestinian refugees arrived in Iraq during waves of displacement.¹⁵ Those refugees have enjoyed a favorable environment in conformity with the 1965 Protocol for the Treatment of Palestinians in Arab States.¹⁶ However, Iraq does not grant Iraqi citizenship to Palestinian refugees, even if they were born in Iraq.¹⁷

Law No. 26 of 1961 on Travel Documents for Palestinians regulates the requirements for issuing Iraqi travel document to Palestinian refugees residing in Iraq who do not hold a passport issued by the Palestinian Authority. The travel document is issued following approval by the Iraqi Ministry of Interior.¹⁸

To be eligible to hold a travel document issued by the Iraqi authorities, Palestinian refugees residing in Iraq must meet the following requirements:

- 1- The Palestinian refugee has not acquired the citizenship of one of the Arab countries or the citizenship of any other country[.]
- 2- must be in sound mind[, and]
- 3- must not be prohibited from leaving Iraq.¹⁹

The travel documents are valid for five years but must be renewed every year by the Iraqi Passport Agency.²⁰ Iraqi embassies and diplomatic missions abroad may extend and renew travel documents issued to Palestinians refugees in Iraq.²¹

The names of children under 14 years of age may be included in their father's travel document. However, children who are above the age of 14 must have separate travel documents.²²

¹⁴ Embassy of the State of Palestine in Iraq, *supra* note 3.

¹⁵ *Palestinian Refugees in Iraq – Applicable Legislation*, UNHCR – The UN Refugee Agency (May 2019), <https://perma.cc/49XE-6X8W>.

¹⁶ League of Arab States, *Protocol for the Treatment of Palestinians in Arab States (“Casablanca Protocol”)*, Sept. 11, 1965 (unofficial English translation), available at Refworld, <https://perma.cc/7MVD-GV5Z>.

¹⁷ Claire Thomas, *The Forgotten Generations: Palestinian Refugees in Iraq*, Al Jazeera (Feb. 5, 2017), <https://perma.cc/4XH7-3UAC>.

¹⁸ Ordinance No. 26 of 1961 on the Iraqi Travel Documents for Palestinians, *al-Waqā’i’ al-’Irāqīyah*, vol. 572, 11 Sept. 1961, <https://perma.cc/G8SC-PFSF> (in Arabic).

¹⁹ *Id.* art. 4 (translation by author).

²⁰ *Id.* art. 6.

²¹ *Id.* art. 7.

²² *Id.* art. 9.

Recognition of Foreign Passports: Iraq

Finally, the travel document will be canceled if the Palestinian refugee begins working in a country that is hostile to Iraq.²³

²³ Id. art. 10(c).

Israel

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SUMMARY The entry into Israel of foreign nationals is regulated by laws and implementing regulations. The minister of interior enjoys wide discretion regarding admission of foreign nationals into Israel and the grant of residence visas to qualifying applicants. Admission usually requires presentation of a valid passport, travel document, or other recognized documents. Israeli alternative travel documents may be issued to politically persecuted persons as well as to other persons such as holders of temporary employment visas and other temporary residents, including in exceptional humanitarian cases.

I. Introduction

The entry into Israel of persons who do not hold Israeli citizenship, or qualify as *Olim*,¹ is regulated under the Entry into Israel Law, 5712-1952 (EIL),² and the Entry into Israel Regulations, 5734-1974.³ The EIL provides the minister of interior (MOI) or the minister's designee wide discretion in exercising authority for admission of foreigners into Israel.⁴

A request for an entry visa may be filed in or outside Israel.⁵ A visa application must be accompanied by "a passport, travel document or other recognized document," in addition to any other document as requested by the MOI.⁶

Any entry and exit from Israel must be through one of the border stations designated by the MOI in an order published in the official gazette. A person wishing to enter or exit Israel must present before a border control officer or inspector "a valid passport, travel document or another document issued by the minister of the interior for this purpose . . . [except if the minister has determined that] there were special circumstances that justify [the exemption]."⁷

¹ Jews and members of their family immigrating to Israel in accordance with the Law of Return, 5710-1950, Sefer HaHukim (SH, Book of Laws, official gazette) 5710 No. 51 p. 159, as amended, <https://perma.cc/4NDK-DSD8> (unofficial English translation).

² Entry into Israel Law, 5712-1952, SH 5712 No. 354 p. 134, as amended (EIL) (in Hebrew).

³ Entry into Israel Regulations, 5734-1974, Kovetz Hatakanot (KT, Subsidiary Regulations) 5734 No. 3201 p. 1517, as amended (Regs.) (in Hebrew).

⁴ EIL §§1-6.

⁵ Reg. 3.

⁶ Id. §§ 1-2.

⁷ EIL § 7.

A border control officer may delay and order the detention of an applicant for the duration of verification of the applicant's eligibility of entry.⁸ Verification of eligibility may include confirmation of the applicant's citizenship, the existence of criminal and other warnings regarding the applicant, the existence of concerns that the applicant will settle in Israel, and more.⁹

II. Recognition of Passports Issued by Alternative Governments

In accordance with the Oslo Agreement signed in Washington on September 13, 1993, the Palestinian self-government began issuing Palestinian Authority (PA) passports and travel documents in 1995.¹⁰

As a rule, PA residents who stay in Israel under temporary residence permits are not entitled to travel documents and must use their Palestinian passports for entry into and exit from Israel. Exceptions are detailed in Part IV below.¹¹

III. Recognition of Irregular Passport Extension

No rules were identified on this issue.

IV. Issuance of Alternative Travel Documents

Alternative travel documents may be issued to politically persecuted persons, to temporary guest workers, and to other temporary residents in accordance with the Passports Law as well as directives issued by the Population and Immigration Authority (PIA). The Passports Law provides that the MOI may issue a travel document to a person who is not an Israeli citizen or whose citizenship is undefined or in doubt, and in special cases, to an Israeli citizen at the citizen's request.¹²

A. Politically Persecuted Persons

Israel is a signatory to the 1951 UN Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees.¹³ Israel therefore grants political asylum to those who qualify within the scope of the Refugee Convention. As part of ratifying the Refugee Protocol, however, Israel added a reservation regarding the right of a recognized refugee to receive travel documents in accordance with Article 28 of the Refugee Convention. Accordingly,

⁸ Id. § 9.

⁹ Information from the PIA Legal Department received by the author (Apr. 6, 2021).

¹⁰ Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip (Sept. 28, 1995), Israel Ministry of Foreign Aff., <https://perma.cc/N8VE-G7ZY>.

¹¹ Handling Israeli Travel Documents to Foreigners Registered at Population Registry, PIA Directive No. 3.2.0006, § 4.5.6. (Dec. 26, 2019), <https://perma.cc/42TZ-XA5B> (in Hebrew).

¹² Passports Law 5712-1952, § 2 (b), SH 5712 No. 102 p. 260, as amended (in Hebrew).

¹³ Convention and Protocol Relating to the Status of Refugees, July 28, 1951, 19 U.S.T. 6259, 189 U.N.T.S. 137 (Convention) & Jan. 31, 1967, 19 U.S.T. 6223, 606 U.N.T.S. 267 (Protocol), <https://perma.cc/QDU2-PYMW>.

Recognition of Foreign Passports: Israel

Article 28 shall apply to Israel with the limitations which result from Section 6 of the Passport Law of 5712-1952, according to which the Minister may, at his discretion:

- (a) Refuse to grant, or to extend the validity of a passport or laissez-passer;
- (b) Attach conditions to the grant or the extension of the validity of a passport or laissez-passer;
- (c) Cancel, or shorten the period of validity of a passport or laissez-passer issued, and order the surrender thereof;
- (d) Limit, either at or after the issue of a passport or laissez-passer, the range of countries for which it is to be valid. . . .¹⁴

Persons recognized as refugees may be issued an A/5 temporary residence visa in accordance with the Entry into Israel Regulations.¹⁵ A visa may generally be issued based on a valid travel document. The MOI, however, may also issue a visa based on a travel document that has expired or on another document, approved by the minister for this purpose.¹⁶

The grant of travel documents to refugees is subject to the criteria enumerated in Directive No. 3.2.0006 issued by the PIA on Dec. 26, 2019.¹⁷ Issuance of a travel document requires that the application be filed when the temporary residence permit is valid, proof that the applicant does not have a valid foreign passport, and verification that the applicant's temporary A/5 has been granted based on recognition of refugee status.¹⁸

B. PA Residents Facing Threats

While PA residents are generally not entitled to Israeli travel documents, they may be issued such documents based on the determination of an authorized security committee that the applicant "cannot obtain a Palestinian passport because he is threatened or that if he enters the territories of the Palestinian Authority his life is in danger."¹⁹

C. Other Persons

Temporary guest workers and other temporary residents may be issued alternative travel documents under PIA directives depending on whether or not they are registered as residents in the population registry.²⁰ According to the PIA,

¹⁴ *Convention Relating to the Status of Refugees: Status of Signatories and Parties*, United Nations Treaty Collection, <https://perma.cc/BK4Y-J4DK>.

¹⁵ Reg. 6 (e).

¹⁶ Reg. 8.

¹⁷ PIA Directive No. 3.2.0006, *supra* note 11 § 4.5.5.

¹⁸ *Id.* § 4.5.5.

¹⁹ PIA Directive No. 3.2.0006, § 4.5.6.

²⁰ PIA Directive No. 3.2.0006 (Dec. 26, 2019), and PIA Directive No. 3.2.0016 (Dec. 26, 2019), <https://perma.cc/5HHY-4YDV> (in Hebrew).

Recognition of Foreign Passports: Israel

This distinction lies in the relevant difference between these two groups, where those registered in the Population Registry are residents of Israel who are entitled to go out and enter it. With regard to foreigners—the Authority’s position is that, as a rule, an Israeli travel document will not be issued to foreigners who are not registered in the population registry, except in exceptional cases. . . .²¹

In accordance with PIA Directive No. 3.2.0016, a travel document may be issued to those who are not registered in the Population Registry if they qualify under the following:

2.3.1 A foreigner who does not have a consular representation in Israel for purpose of his departure from Israel only.

2.3.2 A foreigner against whom a removal order from Israel has been issued or who wishes to leave voluntarily and does not have a valid travel document.

2.3.3 For those entitled to . . . [immigrate under the Law of Return] who are abroad and want to immigrate to Israel.

2.3.4 For those . . . [qualifying for B/1 temporary employment visa] in exceptional cases only.

2.3.5 For a spouse of an Israeli who holds a visa type B/1 . . . by virtue of spousal relationship for at least three years and subject to verification of center of life [in Israel] and current relationship.

2.3.6 In exceptional humanitarian cases, when it has been proven that the applicant is unable to leave Israel by other means, subject to documents supporting these claims and with the approval of the Population Administration headquarters. . . .²²

An applicant who wishes to return to Israel after leaving it, must submit a request for a re-entry visa with the initial application for a travel document. As a rule, an application for a re-entry visa for spouses will be approved in the absence of any other impediment.²³

²¹ PIA information, *supra* note 9, translated by the author.

²² PIA Directive No. 3.2.0016, § 2.3.

²³ *Id.* § 6.

Italy

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SUMMARY The Italian Ministry of Foreign Affairs and International Cooperation has the legal responsibility for issuing, renewing, withdrawing, or reinstating passports. Foreign passports, in turn, are considered valid when issued by countries whose governments are recognized by the Italian government. Italian legislation governs the issuance of entry or transit visas for foreigners, as well as residence permits, all of which require the possession of a valid passport by the applicant. In addition, Italy is a party to multilateral treaties concerning refugees and stateless persons. Procedurally, the Ministry of Foreign Affairs administers a website specially dedicated to the recognition of foreign passports and the issuance of visas. The determination of whether a foreign passport or other international travel document is recognized depends, ultimately, on a case-by-case review of the aforementioned website. With the exception of the particular cases of Venezuela and Kosovo, no specific information was found as to whether Italy has recognized two passports from a country that either has two governments or has a civil war, or whether Italy has ever recognized or created special travel documents for dissidents or others who cannot get their passports renewed by authoritarian regimes, or whether special travel documents or passports for dissidents have been recognized by Italy. Finally, Italy issues special travel documents to refugees, stateless persons, and beneficiaries of subsidiary protection.

I. Introduction

A. General Provisions on Issuance and Recognition of Passports by the Italian Authorities

In Italy, passports are issued, renewed, withdrawn, or reinstated by the Italian Minister for Foreign Affairs and by police chiefs (*quaestors*) within Italy, and in exceptional cases by border inspectors for Italians abroad. Overseas, in turn, that faculty is exercised by diplomatic and consular representatives.¹ The Minister for Foreign Affairs may also adopt particular provisions for the issuance of passports, or their equivalent, to persons considered as emigrants per applicable legislation, in the general interest of Italian workers abroad.²

Concerning foreign passports, the general rule established in Law No. 1185 of 1967 is that passports are valid when issued by countries whose governments are recognized by the Italian government, with some limitations established in that law.³

¹ Legge 21 novembre 1967, n. 1185, Norme sui Passaporti (Law No. 1185), art. 5, <https://perma.cc/B3TX-W5D2>.

² Id. art. 9.

³ Id. art. 2.

B. Entry or Transit Visas and Residence Permits

1. Entry or Transit Visas

With minor exceptions, the issuance of entry or transit visas is the responsibility of the Italian diplomatic or consular representation in the foreigner's country of origin or permanent residence.⁴ Italian border police may be authorized to issue entry or transit visas for a duration not exceeding, respectively, 10 and five days, for cases of absolute necessity.⁵

Specific instructions issued by the Ministry of Foreign Affairs jointly with the ministers of the Interior, Labor and Social Security, Grace and Justice, and Social Solidarity, determine the type of visa corresponding to the different reasons for entry, as well as the requirements and conditions for obtaining and retaining each type of visa, also in accordance with the international obligations assumed by Italy.⁶

A legally issued passport or other travel document recognized as equivalent as well as all the necessary documentation must be attached to the application for a visa.⁷ For the issuance of residence cards, the interested party is required to request it in writing, on a form approved by decree of the Minister of the Interior.⁸

For stays not exceeding three months, visas issued by Italian diplomatic and consular representations are equivalent to those issued, on the basis of specific agreements, by the diplomatic or consular authorities of other States.⁹

2. Residence Permits

The duration of the residence permit is that established by the entry visa, within the limits established by this consolidated law or in implementation of the international agreements and conventions in force, and may not be higher than:

- a) three months, for visits, business and tourism;
- b) six months, for seasonal work, or nine months for seasonal work in areas that require such extension;
- c) one year, with respect to the attendance of a duly certified study or training course; the permit is, however, renewable annually in the case of multi-year courses;
- d) two years, for autonomous work, for subordinate work for an indefinite period and for family reunification;

⁴ Decreto Presidente della Repubblica 31 agosto 1999, n. 394 [Decree of the President of the Republic of August 31, 1999, No. 394] (Regulating Law No. 286 of 1998) (D.P.R. No. 394), G.U. Nov. 3, 1999, No. 258, art. 5(1), <https://perma.cc/G6F4-AJ7R>.

⁵ Id.

⁶ D.P.R. No. 394, art. 5(3).

⁷ Id. art. 5(6).

⁸ Id. art. 16(1).

⁹ Id. art. 4(1)(a).

Recognition of Foreign Passports: Italy

e) to the needs specifically documented, in the other cases permitted by this consolidated law or by its implementing regulations.¹⁰

In the case of travel to Schengen states or to non-Schengen foreign countries, the interested party must always be in possession of a document recognized as valid for crossing borders.¹¹ The documents recognized as valid for border crossing are:

(a) the identity card valid for expatriation;

(b) the passport, issued in accordance with Law No. 1185 of 1967 and other applicable legislation (*i.e.* documents equivalent to it, such as, for example, the collective passport, governed by article 20 of the same law); and

(c) a different travel document specifically recognized by the country of destination; in the case of Italy, attributable to this last category are personal identification cards issued per Presidential Decree No. 851 of 1967, (to civilian as well as military employees of the state), as well as the so-called pass for minors less than 15 years, specifically provided for by the European Agreement on the movement of persons between the member countries of the Council of Europe, concluded in Paris on December 13, 1957, endorsed by the respective Police Headquarters, in accordance with applicable legislation.¹²

C. International Treaties

Italy is also a party to the following international treaties, which include provisions on the issuance of alien travel documents:

- The 1957 Agreement Relating to Refugee Seamen,¹³ adhered to by Italy on October 31, 1966;¹⁴
- The 1954 Convention Relating to the Status of Stateless Persons,¹⁵ ratified by Italy through Law No. 306 of February 1, 1962,¹⁶ with entry into effect in Italy on March 3, 1963;¹⁷ and

¹⁰ Decreto Legislativo 25 luglio 1998, n. 286 Testo Unico delle Disposizioni concernenti la Disciplina dell'Immigrazione e Norme sulla Condizione dello Straniero (L.D. No. 286 of 1998), art. 5(3), <https://perma.cc/S6K9-MKAG>.

¹¹ *I Documenti per Viaggiare*, Polizia di Stato (Mar. 30, 2016), <https://perma.cc/F8NA-RWB3>.

¹² *Id.*

¹³ Convention Relating to Refugee Seamen, Nov. 23, 1957, 284 U.N.T.S 126, <https://perma.cc/YUX3-P8CD>.

¹⁴ Adesione all'Accordo relativo ai Marinai Rifugiati, adottato a L'Aja il 23 Novembre 1957 e sua Esecuzione, <https://perma.cc/5ADE-TRBM>.

¹⁵ Convention Relating to the Status of Stateless Persons, Sept. 28, 1954, 360 U.N.T.S. 117, <https://perma.cc/4X8V-94PW>.

¹⁶ Legge 1 febbraio 1962, n. 306 Ratifica ed Esecuzione della Convenzione relativa allo Status degli Apolidi, adottata a New York il 28 Settembre 1954, <https://perma.cc/T6NP-YCXS>.

¹⁷ Convenzione sullo Status degli Apolidi (1954), Università degli Studi di Padova, <https://perma.cc/N75B-VGFX>.

- The 1951 Convention on Status of Refugees,¹⁸ ratified by Italy on November 15, 1954.¹⁹

II. Recognition of Passports Issued by Alternative Governments

The Italian Ministry of Foreign Affairs and International Cooperation maintains a website identifying, on a country-by-country basis, whether foreign passports are accepted as valid for traveling into Italy.²⁰ The first tab of the website requires petitioners to identify their nationality, and the second tab prompts users to state their country of residence.²¹

Therefore, the response to the question whether Italy has recognized an alternative passport issued by a government of an area that has proclaimed independence/sovereignty or is in a state of conflict, or whether the country has recognized certain passports issued by a national government that were extended for a certain period of time after expiration, is to be found following the aforementioned procedure.

In that context, no positive information was found that Italy has recognized an alternative passport issued by the government of an area that has proclaimed independence/sovereignty or is in a state of conflict, or by governments established in exile, “interim” or other governments in countries involved in civil wars.

Italy has recognized the independence of Kosovo, but does not appear to recognize Kosovan travel documents, in contrast to, for example, Greece, Romania, and Ukraine, which do recognize such documents.²²

III. Recognition of Irregular Passport Extension

No information was found establishing that Italy has recognized certain passports issued by a national government that were extended for a certain period of time after expiration.

It is worth noting that, in 2020, an initiative took place in Milan in which a group of Venezuelan citizens belonging to the “Association of Venezuelans in Lombardy” met at a local law firm in order to determine courses of action to remedy the situation caused by the expiration of their passports, and the difficulty in renewing them or requesting new ones, which is causing them to

¹⁸ Convention Relating to the Status of Refugees [Refugee Convention], July 28, 1951, 19 U.S.T. 6259, 189 U.N.T.S. 137, <https://perma.cc/QV68-ADJ5>.

¹⁹ UNHCR, *States Parties to the 1951 Convention Relating to the Status of Refugees and the 1967 Protocol*, <https://perma.cc/C259-CCGG>.

²⁰ *Il Visto per l'Italia [Visa for Italy]*, Ministry of Foreign Affairs and International Cooperation, Directorate General for Italians Abroad and Migration Policies, <https://vistoperitalia.esteri.it/home/it>.

²¹ *Id.*

²² *Countries That Recognize Kosovo*, WorldAtlas, <https://perma.cc/DYH6-JZ82>; *Ukraine Accepts Kosovo Passports – Deputy FM Bodnar*, Unian (Sept. 24, 2020), <https://perma.cc/S4ZX-WJF7>.

remain or move into a situation of illegal residence in Italy.²³ One of the avenues explored was the possibility of requesting from the Tribunal of Milano the issuance of a document called a “Title of Travel” (*Titolo di Viaggio*), which would constitute a sort of passport substitute allowing beneficiaries to carry out administrative, legal, and travel activities in Italy.²⁴ No information on the outcome of these efforts was available at the time of this report.

IV. Issuance of Alternative Travel Documents

A. Politically Persecuted Persons

The website of the State Police, part of the Ministry of the Interior, lists the types of passports and travel documents issued by the Italian government. The site refers to “travel documents for stateless persons, foreigners, and refugees.”²⁵ In particular, since September 24, 2015, foreigners, stateless persons, and political refugees are required to obtain a new electronic document that supersedes the paper passport. The electronic document—printed by the Polygraphic Institute and State Mint and issued by the immigration office—is equipped with microchips holding memorized images of the face and two fingerprints of the holder, with personal data inserted in the document pages.²⁶

1. Refugees and Stateless Persons

According to Legislative Decree No. 251 of 2007, the relevant police headquarters can issue a “travel document” (*Documenti di viaggio*) to holders of refugee status and to stateless persons. The document is valid for five years and authorizes the person to travel outside the national territory.²⁷

The travel document is equivalent to the passport of the country of citizenship and allows the holder to circulate freely within the Schengen Area and in the territories of other states, limited to those in which the Geneva Convention of 1951 is in force, except for excluding travel to the holder’s country of origin.²⁸

²³ Istanza presso il Tribunale di Milano per il Riconoscimento di Passaporto Venezuelano Scaduto (Sept. 23, 2020), <https://perma.cc/Y8NQ-CM3D>.

²⁴ Id.

²⁵ *Document di Viaggio per Apolidi, Stranieri e Rifugiati*, Polizia di Stato, <https://perma.cc/HY3K-H3YS>.

²⁶ Id.

²⁷ Decreto Legislativo 19 Novembre 2007, n. 251 Attuazione della Direttiva 2004/83/CE recante Norme Minime sull’Attribuzione, a Cittadini di Paesi Terzi o Apolidi, della Qualifica del Rifugiato o di Persona altrimenti Bisognosa di Protezione Internazionale, nonché Norme Minime sul Contenuto della Protezione Riconosciuta, arts. 1 & 24(1), <https://perma.cc/VR2N-4PPT>.

²⁸ *Vivere e lavorare in Italia*, <http://www.integrazionemigranti.gov.it>, <https://perma.cc/BPM3-4HKQ>.

In Italy, a travel document for political refugees was originally established in 1961 pursuant to Circular No. 48 of the Ministry of the Interior.²⁹

2. *Asylum Seekers*

Legislative Decree No. 251 of 2007 also provides for the issuance of a “travel document for foreigners” to beneficiaries of subsidiary protection where there are well-founded reasons that prevent them from applying for a passport from their country of origin.³⁰ This document is issued by the relevant police headquarters with territorial jurisdiction for issuing a residence permit, and has the same duration as such a permit.³¹

B. Other Persons

It does not appear that Italy grants travel documents to other foreigners residing in the country, including temporary guest workers and temporary residents.

²⁹ Circolare No. 48 del 31 Ottobre 1961 del Ministero degli Affari Esteri, <https://perma.cc/GB5N-F8UP>.

³⁰ Decreto Legislativo 19 Novembre 2007, n. 251, art. 24(2); *Vivere e lavorare in Italia*, supra note 28.

³¹ *Vivere e lavorare in Italia*, supra note 28.

Japan

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SUMMARY The Immigration Control Act requires a foreigner entering or exiting Japan to have a valid passport. Valid passports include those issued by an authorized organization of a region that the Japanese government specifies. The Japanese government may issue a travel document to foreigners in Japan who are refugees, stateless persons, and certain Koreans.

I. Introduction

The Immigration Control and Refugee Recognition Act (Immigration Control Act) is the basic law governing recognition of foreign passports and issuance of travel documents to foreigners.¹ The Immigration Control Act requires a foreigner entering and exiting from Japan to have a valid passport.² When a foreigner in Japan is unable to obtain a passport, the Japanese government may issue a travel document.

II. Recognition of Passports Issued by Alternative Governments

Under the Japanese Immigration Control Act, “passport” means any of the following documents:

- a) a passport, a refugee travel document or any other certificate in lieu of the passport . . . issued by the Japanese Government, a foreign government recognized by the Japanese Government or any authorized international organization;
- b) a document which is equivalent to one of the documents set forth in [paragraph a)], issued by any authorized organization of the region as provided for by Cabinet Order.³

¹ 出入国管理及び難民認定法 [Immigration Control and Refugee Recognition Act (Immigration Control Act)], Cabinet Order No. 319 of 1951, as amended by Act No. 102 of 2018, <https://perma.cc/7BPP-5EEL> (unofficial translation as amended by Act No. 47 of 2016).

² Id. art. 3, para. 1, art. 25; 出入国管理及び難民認定法施行規則 [Immigration Control and Refugee Recognition Act Enforcement Ordinance], Ministry of Justice (MOJ) Ordinance No. 54 of 1981, as amended by MOJ Ordinance No. 39 of 2020, art. 27, para. 4, <https://perma.cc/A9D8-MK7T> (in Japanese).

³ Immigration Control Act art. 2, item 5.

A. Passports Issued by Recognized Foreign Governments

Japan recognizes passports issued by foreign governments that the Japanese government recognizes.⁴ Japan recognizes 195 foreign countries.⁵ Among the countries Japan recognizes is Kosovo, which is not one of the 193 United Nations member countries and is not recognized by some countries.⁶ Because it recognizes Kosovo, Japan also recognizes Kosovo passports.

B. Passports Issued by Authorized Organizations of The Region Specified by Cabinet Order (Taiwan and the West Bank and Gaza Strip)

The Japanese government will also recognize a passport issued by any authorized organization of a region if the government specifies such organization by a cabinet order.⁷ The Cabinet issued an order to specify Taiwan as such a region in 1998.⁸ The Cabinet Order added the West Bank and Gaza Strip as such areas in 2002.⁹

III. Recognition of Irregular Passport Extension

No information was located regarding Japan having recognized passport extensions granted by a foreign government after the expiration date of a passport.

IV. Issuance of Alternative Travel Documents

A. Politically Persecuted Persons - Refugees

The Japanese government issues international travel documents to refugees. The Immigration Control Act states that, if a foreign national recognized as a refugee residing in Japan seeks to depart from Japan, the Commissioner of the Immigration Services Agency (ISA) will issue a refugee travel document. But if the Commissioner finds there is a possibility the person might commit acts detrimental to the interests or public security of Japan, he or she may not issue the

⁴ Id.

⁵ 世界と日本のデータを見る (See Data of The World and Japan), Ministry of Foreign Affairs (Mar. 12, 2021), <https://perma.cc/TN5D-7Q4L>.

⁶ Kosovo Profile, BBC (Nov. 5, 2020), <https://perma.cc/2UEJ-F2GJ>.

⁷ Immigration Control Act art. 2, item 5.

⁸ 出入国管理及び難民認定法第二条第五号ロの地域を定める政令 [Order to Specify Areas Set by The Immigration Control and Refugee Recognition Act Article 2, Paragraph 5 (b)], Cabinet Order No. 178 of 1998. (This Order changed name as 出入国管理及び難民認定法施行令 [Immigration Control and Refugee Recognition Act Enforcement Order] by Cabinet Order No. 421 of 2011.) The tentative translation of the current Order (as amended by Cabinet Order No. 183 of 2019 (Reiwa)) is available at <https://perma.cc/D9C2-3SZW>.

⁹ Order to Specify Areas Set by The Immigration Control and Refugee Recognition Act Article 2, Paragraph 5 (b)], Cabinet Order No. 178 of 1998, as amended by 314 of 2002.

document.¹⁰ The Refugee Travel Document is valid for one year.¹¹ During the period the travel document is valid, the holder may leave and enter Japan any number of times.¹² However, the period of validity of the travel document may not be the same as the authorized period of entry into Japan; the holder must enter Japan before the latter period expires.¹³ If a refugee with a travel document who has departed from Japan cannot re-enter Japan within the validity period of the travel document, the Commissioner of the ISA may extend its validity period up to six months if the Commissioner finds reasonable grounds upon an application by the refugee.¹⁴

B. Stateless Persons and Persons Rooted in Korea

When a foreigner plans to leave and come back to Japan prior to the date of expiration of his or her period of stay, the foreigner needs to acquire a re-entry permit. Otherwise, the foreigner must again acquire a new visa and resident status to come back. When such foreigner has a valid passport and leaves Japan for short period of time, the procedure is simplified and can be done at a port of departure.¹⁵ However, if a foreigner is unable to acquire a passport, he or she must visit a local immigration office and acquire a re-entry permit, which is regarded a travel document.¹⁶ A re-entry permit is in the form of passport-sized booklet.¹⁷ The foreigner must submit a written statement of a justifiable reason for having no passport, such as being stateless or a special permanent resident of Japan as a person rooted in Korea.¹⁸ The maximum valid period of re-entry permission is five years.¹⁹

1. Stateless Persons

There are several causes why a foreigner could become stateless while he or she is in Japan. The following are examples:

(a) When a child who was born in Japan may not acquire the parents' nationality because of features of the nationality law of the parents' country (or countries).

¹⁰ Immigration Control Act, Cabinet Order No. 319 of 1951, as amended by Act No. 102 of 2018, art. 61-2-12, para. 1.

¹¹ Id. art. 61-2-12, para. 3.

¹² Id. art. 61-2-12, para. 4.

¹³ Immigration Bureau, MOJ, A Guide to the Procedure for Recognition of Refugee Status 11, <https://perma.cc/XYA7-GA6C>.

¹⁴ Immigration Control Act art. 61-2-12, para. 6.

¹⁵ Id. art. 26-2, 26-3.

¹⁶ Id. art. 26, para. 1, 2.

¹⁷ Study Group on Statelessness in Japan, 日本における無国籍者 (Typology of Stateless Persons in Japan), at 18 (2017), <https://perma.cc/62QZ-L7AX>.

¹⁸ 出入国管理及び難民認定法施行規則 [Enforcement Ordinance of the Immigration Control and Refugee Recognition Act], MOJ Ordinance No. 54 of 1981, as amended by MOJ Ordinance No. 29 of 2019, <https://perma.cc/3NXP-WZBY>.

¹⁹ Immigration Control Act art. 26, para. 3.

(b) When a country is dissolved or a part of a country becomes independent while a person from that country resides in Japan, he or she may become stateless because his or her nationality is no longer recognized in the territory. For example, in a case where a person who was born in the part of Ethiopia that became Eritrea area was residing in Japan when Eritrea became independent, and neither country issued a passport to the person, the Japanese government issued re-entry permit to the person.²⁰

(c) Indochinese refugees and persons who came to Japan through third-country refugee resettlement programs are not refugees who were recognized as refugees by Japanese law. On the other hand, their home countries may not recognize them as their nationals anymore. The Japanese government has issued re-entry permits for refugees from Indochina to visit Vietnam to see their family.

2. *People Rooted in Korea*

a. Koreans in Japan

After victory in the Russo-Japanese War (1904–05), Japan gained supremacy in Korea, and in 1910 annexed Korea.²¹ Koreans became Japanese nationals. Many Koreans came to Japan under the following circumstances:

- Many Korean farmers lost lands under Japanese rule. Some of these Koreans emigrated to Manchuria and Japan in search of jobs. The majority of ethnic Korean residents in those areas are their descendants.²²
- Near the end of the World War II, Japan's war industry faced labor shortages. Koreans were forcibly recruited as low paid workers, mainly in construction, coal mining and metal manufacturing.²³
- After Japan's surrender to the Allied Forces in 1945, Korea was divided in North and South. Fierce ideological, sometimes physical, fighting took place in the South. During the Jeju Uprising/Massacre (April 3, 1948-1953), many residents of Jeju escaped to Japan.²⁴ Also, Koreans who returned to Korea from Japan came back and entered Japan illegally.²⁵

²⁰ Study Group on Statelessness in Japan, *supra* note 17, at 41-43.

²¹ Korea: The International Power Struggle and Korea's Resistance, BRITANICA, <https://www.britannica.com/place/Korea/The-Tonghak-Uprising-and-government-reform> (last visited Mar. 25, 2021).

²² Korea: Military Control, Britanica, <https://www.britannica.com/place/Korea/Korea-under-Japanese-rule>.

²³ Soo im Lee, *Diversity of Zainichi Koreans and Their Ties to Japan and Korea*, Afrasian Research Center, Ryukoku Univ., at 3 (2012), <https://perma.cc/3ETW-UMUF>.

²⁴ Jeju Uprising, *New World Encyclopedia*, <https://perma.cc/LP9V-TYWD>.

²⁵ Jun-ya Koizumi, Junior Cabinet Minister of Justice, described that Koreans came to Japan by stowaway at the risk of their lives, regardless of the means. Statement 007 by Minutes of Judicial Committee, House of Representatives No. 23 of 1955 (June 18, 1955), <https://perma.cc/97VC-RQ8E>. See also, Kwon-cha Yun, 朝鮮人

b. Loss of Japanese Nationality

The Allied Occupation of Japan started in 1945. The occupation authorities attempted to repatriate as many Koreans in Japan as possible.²⁶ However, approximately 650,000 remained in Japan.²⁷ Near the end of the Allied Occupation, the Japanese government issued a notification on April 19, 1952. It stated that when the Treaty of Peace with Japan would become effective on April 28, 1952, Taiwanese and Koreans would lose their Japanese nationality, including those who are in Japan, because Taiwan and Korea would separate from Japanese territory.²⁸

c. Special Long Term Status

Some Koreans who have stayed in Japan became naturalized in Japan, but many Koreans chose not to do so. The Japanese government had given special long-term resident status to Koreans who lived in Japan before the surrender of Japan and to their children.²⁹ In 1991, the Diet (Japan's parliament) enacted a new special act in order to give the special permanent resident status to certain Koreans. These Koreans are mainly: (i) persons who have been residing in Japan continuously since September 2, 1945,³⁰ or earlier; (ii) persons who are children of (i) and were born in Japan between September 3, 1945, and April 27, 1952, and who have continued to reside in Japan since then; and (iii) offspring of (i) or (ii) who were born in Japan (and whose parent was born in Japan) and have lived in Japan since their birth.³¹

These Special residents have the following privileges, among others, compared with other permanent residents:

管理と密航、外国人登録制度 (Management of Koreans and Stowaway, Foreigner Registration System), コリア研究: Ritsumeikan J. of Korean Studies No. 5, at 91 (2014), <https://perma.cc/ZF7V-L9YZ>.

²⁶ Matthew R. Augustine, *The Limits of Decolonization: American Occupiers and the "Korean Problem" in Japan, 1945-1948*, *Int'l J. of Korean History*, Vol. 22(1), at the end of the section "Repatriation as Decolonization" (2017), <https://perma.cc/6HHE-YGVG>.

²⁷ Lee, *supra* note 23, at 3.

²⁸ 平和条約の発効に伴う朝鮮人、台湾人等に関する国籍及び戸籍事務の処理について [Concerning Treatment of Koreans and Taiwanese Nationality and Family Registry Associated with Enforcement of the Treaty of Peace with Japan] 民事甲 No. 438, MOJ (Apr. 19, 1952).

²⁹ By then, special treatments by laws and bilateral agreements existed for Koreans who stayed in Japan after the WWII.

³⁰ September 2, 1945 was the date of Japan's surrender to the Allies.

³¹ 日本国との平和条約に基づき日本の国籍を離脱した者等の出入国管理に関する特例法 [Special Act on the Immigration Control of, *inter alia*, those who have lost Japanese Nationality pursuant to the Treaty of Peace with Japan (Special Act)], Act No. 71 of 1991, as amended by Act No. 102 of 2018, <https://perma.cc/9N8P-4NDG> (unofficial translation).

Recognition of Foreign Passports: Japan

- Causes of deportation are limited.³²
- Exemption from face imaging and fingerprinting that are required for foreigners upon entry to Japan.³³
- When they leave and come back to Japan, only the validity of their passports are examined; criminal records are not checked.³⁴
- The terms of re-entry permits are longer.³⁵

d. Passports and Travel Documents of Koreans in Japan

After the WWII, before the North and South Korean governments were established, the Japanese government used the term Chosen (Korean) national to register Koreans as foreigners in Japan. Since Japan's recognition of South Korea, the Japanese government has changed their nationality to South Korean upon request. The remaining Koreans have been registered as Chosen nationals.³⁶ South Korean nationals can obtain South Korean passports. Other Koreans cannot obtain valid passports because there is no North Korean embassy or consular offices in Japan. Even if the person obtained a North Korean passport, it would not be recognized by the Japanese government. Therefore, when a Korean who is not South Korean national travels overseas, the Japanese government issues a re-entry permit that serves as a travel document.

³² Id. art. 22.

³³ Immigration Control Act, Cabinet Order No. 319 of 1951, as amended by Act No. 102 of 2018, arts. 5, 6, 7, 26; Special Act art. 20.

³⁴ Immigration Control Act arts. 7, 26; Special Act art. 20.

³⁵ Immigration Control Act arts. 26, 26-2; Special Act art. 23.

³⁶ 在日韓国人・朝鮮籍の皆様にとっての「国籍」について (Nationality of Korean National and Chosen National), Kosugi Administrative Scrivener Office, <https://perma.cc/S5TR-JW25>.

Jordan

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SUMMARY After the establishment of the State of Israel in 1948, between 70,000 and 100,000 Palestinian refugees fled to the Kingdom of Jordan. In April 1950, King Abdullah of Jordan annexed the West Bank to Jordan and granted Palestinians living there Jordanian citizenship. In July 1988, King Hussein issued the Disengagement Regulations for the Year 1988, which stripped the Palestinians living in the West Bank of their Jordanian citizenship.

The Kingdom of Jordan is supportive of the two-state solution to the Israeli-Palestinian conflict. The kingdom recognizes both passports issued by the State of Palestine and the State of Israel. It appears that laws and regulations providing a list of recognized and unrecognized passports are not available.

Jordan issues temporary passports to Palestinian refugees residing in Jordan. The Jordanian Passport Law, Law No. 2 of 1969, provides for two types of passports: (1) regular passports issued to Jordanian citizens, which are renewable after five years, and (2) passports issued in special circumstances for a limited time not to exceed one year that do not confer citizenship on their holders. Temporary passports given to Palestinians residing in Jordan are called "T-passports" and used as travel documents only.

I. Introduction

After the establishment of the State of Israel in 1948, between 70,000 and 100,000 Palestinian refugees fled to Jordan. In April 1950, King Abdullah of Jordan annexed the West Bank to Jordan. He also granted those Palestinian refugees and Palestinians living in the West Bank Jordanian citizenship.¹

In June 1967, Israel occupied the West Bank and Jordan lost control over it.² According to the United Nations Relief and Works Agency for Palestinian Refugees in the Near East (UNRWA), 158,000 "ex-Gazan" Palestinian refugees fled from Gaza to Jordan in the aftermath of the June 1967 hostilities.³

¹ Shaul M. Gabbay, *The Status of Palestinians in Jordan and the Anomaly of Holding a Jordanian Passport*, 2(1) J. Pol. Sci. & Pub. Aff. 1, 3 (2014), <https://perma.cc/M4WP-8GBR>.

² Danish National ID Centre, *Jordan: Issuance of Jordanian Documents to Stateless Palestinians* 1 (Apr. 16, 2020), <https://perma.cc/Z48F-H8M9>.

³ *Protection in Jordan*, UNRWA (last updated Mar. 2018), <https://perma.cc/9FMS-3NZ3>.

In July 1988, King Hussein issued the Disengagement Regulations for the Year 1988. The purpose of the regulations was to disengage Jordan from all legal and administrative relations with the occupied West Bank. The Disengagement Regulations also stripped Palestinians living in the West Bank of their Jordanian citizenship.⁴ Despite stripping their Jordanian citizenship, however, the Jordanian authorities continue to issue temporary passports to other Palestinians living in Jordan who do not have passports.⁵

The Kingdom of Jordan borders Israel and the West Bank, which came under the supervision of the Palestinian Authority after the Oslo Accords of 1993.⁶ The kingdom has been supportive of the two-state solution to the Israeli-Palestinian conflict.⁷ Accordingly, it maintains diplomatic relations with what it calls “the State of Palestine.” The State of Palestine has an embassy in the Jordanian capital of Amman.⁸ After the peace agreement with the State of Israel in 1994, the kingdom also established diplomatic relations with Israel and recognizes Israeli passports.⁹

II. Recognition of Passports Issued by Alternative Governments

The Kingdom of Jordan recognizes passports issued by the State of Palestine¹⁰—namely, the Palestinian Authority supervising the West Bank and Gaza strip.¹¹ The consular affairs section at the Embassy of the State of Palestine in the Kingdom of Jordan renews, issues, and replaces passports.¹² The website of the Jordanian Passport Authority does not contain a list of passports that are recognized and not recognized by the kingdom. The laws and regulations governing recognized and unrecognized passports are also not available on the website.

⁴ *Jordan: Disengagement Regulations for the Year 1988*, July 28, 1988, art. 2 (unofficial English translation by UNHCR Jordan, available at Refworld), <https://perma.cc/2F38-BU8F>.

⁵ Human Rights Watch, *Stateless Again, Palestinian-Origin Jordanians Deprived of their Nationality* (Feb. 1, 2020), <https://perma.cc/REZ6-ZYSJ>.

⁶ *Oslo Accords Fast Facts*, CNN (Sept. 21, 2020), <https://perma.cc/FYE6-H4NZ>.

⁷ Marwan Muasher, “Jordanian-Palestinian Relations,” in *Palestinian Nationalism: Regional Perspectives*, (Carnegie Endowment for International Peace, Sept. 8, 2017), <https://perma.cc/74KD-8WH3>.

⁸ Embassy of the State of Palestine in the Hashemite Kingdom of Jordan, <https://perma.cc/LH37-9HEY> (in Arabic).

⁹ *Consular Services*, Israeli Embassy in Jordan (Jan. 25, 2021), <https://perma.cc/7WAR-P954>.

¹⁰ Embassy of the State of Palestine, *supra* note 8.

¹¹ U.S. Customs and Immigration Services (USCIS), Resource Information Center: Palestine, *Palestine/Occupied Territories: Information on Passports Issued by the Palestine National Authority* (Dec. 17, 1998), <https://perma.cc/P6RB-D2ZU>.

¹² Embassy of the State of Palestine in the Hashemite Kingdom of Jordan, Consular Affairs, Passport Section, <https://perma.cc/BWA3-Q3KU>.

III. Issuance of Alternative Travel Documents

The Kingdom of Jordan issues Jordanian temporary passports to Palestinian refugees living in Jordan. Law No. 2 of 1969 regulates the issuance of passports and provides for two types of passports: (1) regular passports issued to Jordanian citizens, which are renewable after five years, and (2) passports issued in special circumstances for a limited time not to exceed one year that do not confer citizenship on their holders and which the general director of the Department of Passports may withdraw at any time.¹³ It appears that there is no provision under Law No. 2 of 1969 granting Palestinians holding temporary passports the right to apply for a regular five-year passport.

Law No. 12 of 2014 amended Law No. 2 of 1969, allowing temporary passports issued in special circumstances for one year to be renewed annually, provided that the passport renewal application has the prior approval of the Jordanian Cabinet.¹⁴ Those temporary passports are different from the passports issued to Jordanian citizens. First, the passport number begins with a “T,” and the passports are referred to as “T-passports.” Second, there is no Jordanian national number on the T-passport—the Jordanian national number is included only in passports issued to Jordanian citizens. T-passports are used as travel documents only.¹⁵

According to the official website of the Jordanian Department of Civil Affairs and Passports, foreign nationals residing in the Kingdom of Jordan who have special circumstances and do not hold any other passports have the right to apply for temporary Jordanian passports issued for one year. Those temporary passports may be renewed annually after approval by the Cabinet.¹⁶

The T-passport displays a 10-digit serial number on the cover. If the first digit is a “9,” the holder is identified by Jordanian authorities as a Palestinian residing on the West Bank. However, if the first digit is a “5,” the person is identified by Jordanian authorities as a Palestinian residing in Gaza.¹⁷

In 1995, the Palestinian Authority began issuing passports to Palestinians living in the West Bank.¹⁸ Palestinians residing in East Jerusalem apply for the Jordanian T-passport more often than Palestinians residing in the West Bank.¹⁹ Palestinian refugees residing in Jordan may apply for the T-passport as well. Persons applying for the T-passport must prove that they do not hold

¹³ Law No. 2 of 1969, arts. 10 & 13, Feb. 1, 1969, posted on the official website of the Jordanian Ministry of Interior (Homeland Security), <https://perma.cc/WJ7V-5FSN> (in Arabic).

¹⁴ Law No. 12 of 2014, art. 12, Feb. 26, 2014, posted on the official website of the Jordanian Department of Civil Affairs and Passports, <https://perma.cc/VJP5-WRZV> (in Arabic).

¹⁵ Danish National ID Centre, *supra* note 2, at 2, para. 2.

¹⁶ *Issuance of a Temporary Passport*, Jordanian Department of Civil Affairs and Passports, <https://perma.cc/HM9T-ZKF4> (in Arabic).

¹⁷ Danish National ID Centre, *supra* note 2, at 2, para. 4.

¹⁸ USCIS, *supra* note 11.

¹⁹ Danish National ID Centre, *supra* note 2, at 2, para. 6.

another passport, including passports issued by the Palestinian Authority, or acquired citizenship of a third country.²⁰

²⁰ Research Directorate, Canada: Immigration and Refugee Board of Canada, *Responses to Information Requests: Palestine and Jordan: Passports Issued to Stateless Palestinians by the Government of Jordan, Including Procedures, Entitlements, Differences between Jordanian Passports Issued to Jordanian Nationals and Those Issued to Stateless Palestinians; Passports Issued to Palestinians by the Palestinian Authority, Including Requirements and Procedures, and Entitlements* (Oct. 29, 2015), <https://perma.cc/3C38-FZYF>.

Mexico

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SUMMARY Mexico's Regulation on Passports includes a section providing for the issuance of international travel documents to certain foreigners if applicable requirements are met. Refugees and asylees are eligible to apply for such documents. Information on Mexican-government recognition of passports issued by alternative governments or irregular passport extensions could not be located.

I. Introduction

Immigration in Mexico is primarily governed by the Law on Migration, which provides that foreigners who wish to enter Mexico generally must present a valid passport and a current visa.¹ These entry requirements may be dispensed with for certain immigrants on humanitarian grounds, including for applicants for refugee and asylum status.²

The National Institute of Migration (part of Mexico's Department of Governance) has the authority to execute, control, and supervise the acts performed by immigration officials; implement immigration policies in accordance with guidelines issued by the Department of Governance; and enforce the migration law.³

II. Recognition of Passports Issued by Alternative Governments

A review of relevant official sources did not reveal information on Mexican-government recognition of passports issued by alternative governments of areas that have proclaimed independence or sovereignty or are in a state of conflict.

More specifically, no official information was located addressing whether such types of documents issued by the disputed territories of Abkhazia, South Ossetia, and Transnistria; "interim" governments; or governments established in exile are currently accepted by the Mexican government.

III. Recognition of Irregular Passport Extensions

A review of relevant official sources did not reveal information on Mexican-government recognition of passports issued by a national government that were extended for a certain period after expiration.

¹ Ley de Migración, as amended, arts. 1, 37-I, Diario Oficial de la Federación [DOF] (official gazette), May 25, 2011, <https://perma.cc/5FQE-6WRZ>.

² Id. art. 42.

³ Id. arts. 3(XIV), 19, 20.

IV. Issuance of Alternative Travel Documents

Mexico's Regulation on Passports includes a section providing for the issuance of international travel documents to certain foreigners if applicable requirements are met.⁴ Specifically, these documents may be issued by Mexico's Department of Foreign Relations (DFR) to the following:

- Foreigners in Mexico who have lost their nationality without acquiring another and who, as result, are deemed to be of undefined nationality
- Foreigners in Mexico who have a defined nationality but do not have diplomatic or consular representatives from their country of origin who may issue passports
- Foreigners in Mexico who can demonstrate, to the satisfaction of the DFR, that they are unable to obtain a passport from their diplomatic or consular representatives⁵

A. Politically Persecuted Persons

As stated above, Mexico's Regulation on Passports provides that an international travel document may be issued by Mexico's Department of Foreign Relations (DFR) to foreigners in Mexico who can demonstrate, to the satisfaction of the DFR, that they are unable to obtain a passport from their diplomatic or consular representatives.⁶

Refugees and asylees are eligible to apply for such a travel document.⁷ Political asylum may be granted to foreigners whose life, liberty, or safety are at risk due to political reasons directly related to their public profile and who lack protection by their country.⁸

To apply for the travel document, applicants must present in writing a detailed explanation covering the reasons that prevent them from obtaining passports issued by their diplomatic representatives.⁹ Applicants must present relevant evidence that substantiates their request, including the official denial for a passport issued by the relevant diplomatic authorities, if possible.¹⁰

⁴ Reglamento de Pasaportes y del Documento de Identidad y Viaje, as amended, arts. 2-(I) & (VI), 41, 42, DOF, Aug. 5, 2011, <https://perma.cc/BNZ4-4GME>.

⁵ Id.

⁶ Id. art. 41-III.

⁷ Acuerdo por el que se dan a conocer Lineamientos para el trámite de pasaportes y del documento de identidad y viaje en territorio nacional art. XXV-III, DOF, Nov. 23, 2012, <https://perma.cc/WLL5-ZV7A>; Secretaría de Relaciones Exteriores, Documento de identidad y viaje por primera vez para mayores de edad que no tengan la posibilidad de obtener un pasaporte (refugiados o asilados), <https://www.gob.mx/tramites/ficha/documento-de-identidad-y-viaje-por-primera-vez-para-mayores-de-edad-que-no-tengan-la-posibilidad-de-obtener-un-pasaporte-refugiados-o-asilados/SRE2866>.

⁸ Ley sobre Refugiados, Protección Complementaria y Asilo Político, as amended, art. 61, DOF, Jan. 27, 2011, <https://perma.cc/KU7V-S87W>.

⁹ Acuerdo por el que se dan a conocer Lineamientos para el trámite de pasaportes y del documento de identidad y viaje en territorio nacional art. XXV-III.

¹⁰ Id.

B. Other Persons

The chapter on international travel documents in Mexico's Regulation on Passports does not specifically address whether such types of documents may be issued to temporary guest workers or temporary residents. A review of additional relevant official sources did not reveal relevant information on this matter.

Nicaragua

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SUMMARY The General Law on Immigration and Foreign Issues (Immigration Law) provides the characteristics that a passport for foreigners who enter the national territory must have to be considered valid. No information was located regarding Nicaragua having recognized an alternative passport issued by governments of areas that have proclaimed independence/sovereignty or are in a state of conflict. Citizens from countries listed in Decree No. 57-2005 under Category C need a visa approved by the General Directorate of Migration and Foreign Issues to enter the country. The list includes Syria, Yemen, Libya, the Palestinian Authority, and the Sahrawi Arab Democratic Republic, a partially recognized *de facto* sovereign state, among others. The Nicaraguan government has entered into agreements with Abkhazia and South Ossetia to regulate the reciprocal travel of citizens of those territories and of Nicaragua. No information was located regarding Nicaragua having recognized passport extensions granted by a foreign government after the expiration date of a passport.

Nicaragua is a state party to the 1951 Geneva Convention Relating to the Status of Refugees and its 1967 Protocol. The Ministry of the Interior may issue or deny identity and travel documents to foreigners with refugee status. The documents will not be granted where overriding reasons of national security or public policy exist. Nicaragua has not promulgated a specific statute or regulation setting forth the procedure for the determination, and recognition of political asylum applicants. The Ministry of the Interior may issue or deny identity and travel documents to foreigners with *asylee* status. Identity and travel documents for stateless persons or foreigners whose countries of origin do not have accredited diplomatic or consular representation in Nicaragua will be granted only in accordance with international instruments to which Nicaragua is a party. Nicaragua is a party to the 1954 UN Convention Relating to the Status of Stateless Persons. No information was located indicating that the country issues travel documents to temporary guest workers, temporary residents, and others.

I. Introduction

The entry of nationals and foreigners to Nicaraguan territory as well as the permanence of foreigners in the country are governed by the General Law on Immigration and Foreign Issues (Immigration Law) without prejudice to the provisions of the Constitution, duly ratified international treaties and conventions, and duly approved regional integration agreements.¹ The Immigration Law charges the Directorate General for Migration and Foreign Issues with issuance of Nicaraguan passports and other travel documents.²

¹ Ley No. 761, Ley General de Migración y Extranjería, La Gaceta (L.G.), July 6- 7, 2011, <https://perma.cc/9PAW-8NMR>.

² *Id.* art. 71.

II. Recognition of Passports Issued by Alternative Governments

Article 73 of the Immigration Law provides for the technical specification of migratory documents, stating that ordinary, diplomatic, official, service, and special passports and identity and travel documents for foreigners must be machine-readable in compliance with the technical specifications established by the International Civil Aviation Organization, of which Nicaragua is a member.³

Under the Immigration Law, a passport is considered null when it presents one of the following circumstances:

- 1) Total or partial falsification of the same;
- 2) Alterations of any kind or mutilation;
- 3) Obtained fraudulently;
- 4) Issued not by the appropriate authority (*sin competencia*) to do so, or
- 5) Issued in contravention of any of the provisions contained in this Law and its regulations.⁴

Regarding foreigners who enter the national territory in any of the subcategories of the nonresident classification, their valid identification document in Nicaragua is the passport issued by the appropriate authority of their country of nationality, except in cases where they enter with another travel document established in international instruments ratified by Nicaragua.⁵ Under the Immigration Law, foreigners' identification documents that contain falsifications, alterations, or amendments of any kind or which are missing sheets or covers or have writings or annotations that do not correspond to the appropriate officials are not valid.⁶

The regulation issued under the Immigration Law mandates that nonresident foreign citizens who enter and remain in the national territory must have a passport that is valid for more than six months, except when there are bilateral or regional treaties that provide a shorter validity.⁷

Decree No. 57-2005 of August 31, 2005, divides the countries of the international community into three categories. Category A includes those countries whose citizens do not need a visa to enter Nicaragua. Category B includes the countries whose citizens need a consular visa in order to enter the national territory. Citizens of the countries listed in Category C must have a visa be authorized by the General Directorate of Migration and Foreign Issues in order to enter the national territory. The list in Category C includes, among many countries, Syria, Yemen, Libya,

³ Id. art. 73.

⁴ Id. art. 79.

⁵ Id. art. 89.

⁶ Id. art. 90.

⁷ Decreto Ejecutivo 31-2012, Reglamento de la Ley 761, Ley de Migración y Extranjería, art. 42, L.G., Oct. 1, 2012, <https://perma.cc/9HFZ-7TJU>.

the Palestinian Authority, and the Sahrawi Arab Democratic Republic, a partially recognized de facto sovereign state.⁸

No information was located regarding Nicaragua having recognized an alternative passport issued by governments of areas that have proclaimed independence/sovereignty or are in a state of conflict. However, the Nicaraguan government has entered into agreements with Abkhazia and South Ossetia to regulate the reciprocal travel of citizens of those territories and of Nicaragua, as follows.

A. South Ossetia

The governments of Nicaragua and South Ossetia signed an agreement regarding mutual visa-free travel for citizens of both countries on July 20, 2010. By this agreement, citizens of the state of one of the parties, regardless of their place of residence, may enter, transit, stay, and leave territory of the other party without a visa for a maximum of 90 days according to valid identification documents that prove the citizenship of their owners, according to annexes 1 and 2, which are an integral part of the agreement. Minors who are citizens of the state of one of the parties may enter, leave, transit, circulate, and reside in the territory of the other party, in accordance with the provisions of the agreement, with the documents that prove their identity and that confirm the nationality of their owners, or as long as these minors are registered in the foreign passport they carry as long as it is permitted by the legislation of the parties.⁹

B. Abkhazia

Nicaragua and Abkhazia entered into an agreement regarding mutual visa-free travel for citizens of both countries that is identical to the one signed between Nicaragua and South Ossetia. The agreement between Nicaragua and Abkhazia was also signed on the same date, July 20, 2010.¹⁰

III. Recognition of Irregular Passport Extension

No information was located regarding Nicaragua having recognized passport extensions granted by a foreign government after the expiration date of the passport.

⁸ Decreto 57-2005, Se Establecen para Fines de Exención y Obligatoriedad de Visa, Tres Categorías, Según el Origen y Naturaleza del Documento de Viaje, L.G., Sept. 5, 2005, <https://perma.cc/RZT4-6WQQ>.

⁹ Decreto A.N. No. 8598 de Aprobación del Acuerdo entre el Gobierno de la República de Nicaragua y el Gobierno de la República de Osetia del Sur, Relativa a los Viajes Mutuos sin Visado para los Ciudadanos de la República de Nicaragua y los Ciudadanos de la República de Osetia del Sur, L.G., Sept. 26, 2019, <https://perma.cc/LBW5-X9LD>.

¹⁰ Decreto A.N. No. 8652 de Aprobación del Acuerdo entre el Gobierno de la República de Nicaragua y el Gobierno de la República de Abjasia, Relativa a los Viajes Mutuos sin Visado para los Ciudadanos de la República de Nicaragua y los Ciudadanos de la República de Abjasia, L.G., Mar. 3, 2020, <https://perma.cc/68UK-8GYX>.

IV. Issuance of Alternative Travel Documents

A. Politically Persecuted Persons

1. Refugees

The General Directorate of Migration and Foreign Issues is responsible for the processing and issuance of identity and travel documents for refugees.¹¹ The Ministry of the Interior (*Ministerio de Gobernación*), through the General Directorate of Migration and Foreign Issues, may issue or deny identity and travel documents to foreigners with refugee status. The document will not be granted for overriding reasons of national security or public policy (*orden público*).¹²

Nicaragua is a state party to the 1951 Geneva Convention Relating to the Status of Refugees and its 1967 Protocol.¹³ Nicaragua acceded to the Convention and the Protocol on March 28, 1980.¹⁴ The Convention and Protocol were implemented by the Refugee Protection Law,¹⁵ which provides that the General Directorate of Migration and Foreign Issues will grant any refugee who requests it the travel document referred to in article 28 of the 1951 Convention Relating to the Status of Refugees and in accordance with the provisions of the annex thereto.¹⁶ The Refugee Protection Law echoes the above provision of the Immigration Law, stating that a travel document will not be issued to a refugee when overriding reasons of national security or public policy exist.¹⁷

2. Asylum Seekers

Under the Immigration Law, as is the case of refugees, the General Directorate of Migration and Foreign Issues is responsible for the processing and issuance of identity and travel documents for asylees.¹⁸ The Ministry of the Interior, through the General Directorate of Migration and Foreign Issues, may issue or deny identity and travel documents to foreigners with asylee status.¹⁹

The Nicaraguan Constitution provides that the right to refuge and asylum is recognized and guaranteed in Nicaragua. Moreover, the Constitution states that refugee and asylee status protect only those persecuted for fighting for democracy, peace, justice, and human rights, and that the

¹¹ Ley No. 761, Ley General de Migración y Extranjería, art. 71(7).

¹² Id. art. 91.

¹³ Convention and Protocol Relating to the Status of Refugees, July 28, 1951, 19 U.S.T. 6259, 189 U.N.T.S. 137 (Convention) & Jan. 31, 1967, 19 U.S.T. 6223, 606 U.N.T.S. 267 (Protocol), <https://perma.cc/BTL9-NFJB>.

¹⁴ *States Parties to the 1951 Convention Relating to the Status of Refugees and the 1967 Protocol*, UNHCR, <https://perma.cc/M6J8-8ATU>.

¹⁵ Ley de Protección a Refugiados, Ley No. 655, L.G., July 9, 2008, <https://perma.cc/9GG6-WNPQ>.

¹⁶ Id. art. 31.

¹⁷ Id.

¹⁸ Ley No. 761, Ley General de Migración y Extranjería, art. 71(7).

¹⁹ Id. art. 91.

law will determine the status of political asylee or refugee in accordance with international conventions ratified by Nicaragua. If a decision is made to expel an asylee, the person can never be sent to the country where he or she was persecuted.²⁰

Nicaragua has not promulgated a specific statute or regulation setting forth the procedure for the determination of asylee status and recognition of political asylum applicants. Requests for political asylum are decided by the Foreign Relations secretary through the issuance of a resolution.²¹

3. *Stateless Persons*

Identity and travel documents for stateless persons or foreigners whose countries of origin do not have accredited diplomatic or consular representation in Nicaragua will be granted only in accordance with international instruments to which Nicaragua is a party.²²

Nicaragua is a party to the 1954 UN Convention Relating to the Status of Stateless Persons, having acceded to the Convention on July 15, 2013.²³ Decree No. 12-2013 promulgated the accession to the Convention.²⁴ The accession to the Convention was approved by the National Assembly by Decree A.N. No. 7157 of 2013.²⁵

B. Other Persons

The Immigration Law authorizes the General Directorate of Migration and Foreign Issues to issue identity and travel documents valid for one year to foreigners who do not have a passport and who do not have consular representation.²⁶

No information was located indicating that the country issues travel documents to temporary guest workers, temporary residents, and others.

²⁰ Constitución Política de la República de Nicaragua, art. 42, originally published in L. G., Jan. 9, 1987, published with all its amendments in L.G., Feb. 18, 2014, <https://perma.cc/65N3-ARHK>.

²¹ Telephone consultation with the Legal Department of the General Directorate of Immigration and Foreign Issues (*Dirección General de Migración y Extranjería*) (Sept. 24, 2019).

²² Ley No. 761, Ley General de Migración y Extranjería, art. 91.

²³ UN Convention Relating to the Status of Stateless Persons, 360 U.N.T.S. 117, <https://perma.cc/UH24-XQG3>.

²⁴ Decreto No. 12-2013 de Adhesión a la Convención sobre el Estatuto de los Apátridas y su Anexo, L.G., Mar. 7, 2013, <https://perma.cc/GL7U-EVES>.

²⁵ Decreto A.N. No. 7157, Decreto de la Aprobación de la Adhesión a la Convención sobre el Estatuto de los Apátridas y su Anexo, Hecha en Nueva York el 28 de Septiembre de Mil Novecientos Cincuenta y Cuatro, L.G., May 17, 2013, <https://perma.cc/8SU6-4QSR>.

²⁶ Ley No. 761, Ley General de Migración y Extranjería, art. 10(30).

South Africa

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I. Introduction

South Africa's immigration system is governed under the Immigration Act,¹ the principal law, and its subsidiary legislation, the Immigration Regulations.² South African passports and travel documents are issued under the South African Passports and Travel Documents Act and related regulations.³ Among other things, the Department of Home Affairs is responsible for issuing passports and travel documents, administration of admissions into South Africa, and determining the residency status of foreigners.⁴

II. Recognition of Passports Issued by Alternative Governments

For the purpose of recognition of documents issued by foreign states, the Immigration Act defines a passport as follows:

any passport or travel document containing the prescribed information and characteristics issued-

- (a) under the South African Passports and Travel Documents Act, 1994 (Act No. 4 of 1994);
- (b) on behalf of a foreign state recognised by the Government of the Republic to a person who is not a South African citizen;
- (c) on behalf of any international organisation as prescribed, including regional or sub-regional organisations, to a person who is not a South African citizen; or

any other document approved by the Minister and issued under special circumstances to a person who cannot obtain a document contemplated in paragraphs (a) to (c).⁵

The Immigration Regulations provide rules that regulate the standards under which passports must be issued and the particulars they must include as a condition of their acceptance in South Africa.⁶

¹ Immigration Act No. 13 of 2002 (updated through 2015), <https://perma.cc/38AY-QK8P>.

² Immigration Regulation, 2014 (updated through 2018), <https://perma.cc/8ZGN-QRYP>.

³ South African Passports and Travel Documents Act No. 4 of 1994, § 2, 3 Statutes of the Republic of South Africa (updated through 2020); General Information about South African Passports, Department of Home Affairs.

⁴ *About Us: What We Do*, Department of Home Affairs, <https://perma.cc/NWG3-XS8P>.

⁵ Immigration Act § 1.

⁶ Immigration Regulations § 2.

No specific list of alternative governments whose passports are recognized in South Africa was located.

South Africa recognizes and has had diplomatic relations with the State of Palestine since 1995.⁷ South Africa recognizes passports issued by the Palestinian Authority.⁸

III. Recognition of Irregular Passport Extensions

No information was located regarding South Africa having recognized passport extensions granted by a foreign government after the expiry date of a passport.

IV. Issuance of Alternative Travel Documents

South Africa issues travel documents to refugees. The Refugee Act provides that a “refugee is entitled to ... a travel document if he or she applies in the prescribed manner.”⁹

In addition to refugees, South Africa grants travel documents to permanent residents who cannot obtain passports from their country of origin or stateless persons lawfully residing in the country.¹⁰

⁷ *Palestine (The State of): History and Relations*, Department of International Relations and Cooperation, <https://perma.cc/E3FB-CY4S>.

⁸ *Visa*, The Embassy of South Africa in Israel, <https://perma.cc/WX3C-AGU6>; Immigration Act § 1.

⁹ Refugee Act No. 130 of 1998, § 27(e) (updated through Jan. 1, 2020), <https://perma.cc/SEZ2-8YCJ>; Refugee Regulations, § 19 (updated through Jan. 1, 2020), <https://perma.cc/8FBD-6JK2>.

¹⁰ Instructions and Information, DHA-1705, § 1(b), Annexure to the Refugee Regulations.

Sweden

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SUMMARY Sweden regulates recognition of passports in its Alien Act and Alien Regulation. The Migration Authority has been authorized to recognize additional travel documents that do not meet the requirements as specified in the Alien Regulation. For example Jemeni passports, or Lebanese special passports.

Sweden recognizes Palestine as a sovereign state and therefore recognizes passports issued by the Palestinian Authority, except for Palestinian Authority “00 passports” that are issued to nonresidents.

Sweden issues travel documents to international refugees and stateless persons who meet the requirements of the 1951 Geneva Convention on the Status of Refugees or the 1954 New York Convention on the Status of Stateless Persons. In addition, Sweden issues Alien’s Passports to asylum seekers who cannot apply for a passport from their home countries. Sweden also issues Temporary Alien’s Passports to certain categories of persons who cannot obtain other travel documents, including persons ineligible for Alien’s Passports and persons who must travel to their country of citizenship to apply for a passport. Travel documents and Alien’s Passports are valid for five years and are renewable. Temporary Alien’s Passports are only valid for one trip, and for no longer than seven months. Persons who seek asylum based on political persecution are issued Alien’s Passports that cannot be used for travel to the asylum seeker’s home country.

I. Introduction

A foreigner who travels to Sweden must have a valid passport.¹ Recognition of foreign passports is governed by the Aliens Act, which provides that the Swedish Migration Authority may issue regulations determining which foreign travel documents may be recognized as passports.² The requirements for recognition of passports are listed in 2 chapter 4 § Alien Regulation.

4 § A travel document may be recognized/accepted as a passport (*hemlandspass*), if the document is issued by an authorized agency in the country where the holder is a citizen and meets the conditions specified in paras two to four.

The document must include

¹ 2 kap. 1 § Utlänningslag (UTL) (SFS 2005:716), <https://perma.cc/3Z9X-FA7T>. The Swedish Government has issued a list of countries whose citizens, in addition to a valid passport, also must receive visas prior to traveling to Sweden: *Länder Vars Medborgare Behöver Visum för Inresa i Sverige*, Regeringskansliet, <https://perma.cc/687M-UUNM>.

² 2 kap. 2 § UTL. Table of recognized passports available at Council of the European Union, *Part I: Travel Documents Issued by Third Countries and Territorial Entities*, <https://perma.cc/6YPN-CWYP>.

Recognition of Foreign Passports: Sweden

1. information on the holder's citizenship and complete name and birth date and place of birth,
2. information on the documents term of validity,
3. the holder's signature,
4. information on what agency that has issued the document,
5. information about the documents validity for travel to Sweden, and
6. a well resembling photograph of the holder.

A document may not be accepted as a passport if it does not allow for return to the home country or entry into a third country.

The document must be written in Swedish, Danish, Norwegian, English, French, Italian, Spanish, or German or be accompanied with a certified translation to any of these languages.³

In addition, the Swedish Migration Authority has issued a regulation on additional identification documents that may be recognized as a travel document.⁴ Specifically, it states in provisions 1 through 3 that:

1 § For the purposes of this regulation, the term "travel documents" is understood to mean a document that is issued with the main purpose of enabling border crossings.

2 § For purposes of this regulation, the term "recognized travel document" is understood to mean those travel documents that have been marked as recognized by Sweden in the list that has been established subject to Decision No 1105/2011/EU of the European Parliament and of the Council of 25 October 2011 on the list of travel documents which entitle the holder to cross the external borders and which may be endorsed with a visa and on setting up a mechanism for establishing this list.

3 § A home country passport is a recognized travel document if it meets the requirements specified in 2 ch. 4-6 §§ Aliens Regulation, if subject to 4-5 § § of this regulation or that has been specifically approved in accordance with 2 ch. 22 § 2 para Alien Regulation.⁵

Regulation MIGRFS 01/2016 specifically lists acceptable passports that do not meet the required conditions for passports as specified in 2 chapter 4 Alien Regulation, but which are nevertheless recognized:

1. Ecuadorian "ordinary passport,"
2. Equatorial Guinean "ordinary passport,"
3. United Arab Emirate "ordinary passport,"
4. Gabonese "ordinary passport,"
5. Iranian "ordinary passport,"
6. Jemeni "ordinary passport,"

³ Utlänningsförordning (SFS 2006:97), <https://perma.cc/Y58L-KZT7>.

⁴ Migrationsverkets föreskrifter och allmänna råd om handlingar som får godtas som pass (MIGRFS 01/2016), <https://perma.cc/C55J-AZEM>.

⁵ Id. 1-3 §§.

Recognition of Foreign Passports: Sweden

7. Jordanian "ordinary passport," provided that it is furnished with a national identification number,
8. Jordanian passport issued for Palestinians, provided that it is covered by a series marked "T" and lacks national identification number,
9. Lesothoan "ordinary passport,"
10. Lebanese "diplomatic passport,"
11. Lebanese "special passport,"
12. Mozambician "ordinary passport,"
13. Mongolian "ordinary passport,"
14. Omani "ordinary passport,"
15. Qatari "ordinary passport,"
16. "ordinary passport" from Sao Tomé and Príncipe,
17. Saudi Arabian "ordinary passport," and
18. "ordinary passport" from the Vatican.⁶

In addition to the country-issued passports listed above, Sweden recognizes some travel documents issued by international organizations, including the International Committee of the Red Cross emergency passport and the United Nations-issued *laissez-passer* travel document.⁷ Sweden does not recognize NATO passports, African Union passports, or passports issued by the Sovereign Military Order of Malta.⁸ Other travel documents, including the Tibetan identification, are recognized only for purposes of transit, provided they allow for return to the issuing country.⁹ Travel documents such as Seaman's Books from Israel are not recognized.¹⁰

The Swedish Migration Authority, Foreign Affairs Office, and Tax Authority have determined that a number of country passports cannot be recognized. Passports that cannot be recognized for purposes of proving one's identity include Iraqi,¹¹ Syrian,¹² and Somali passports.¹³ For Iraq, only passports in series A and G are recognized, provided that they are issued by the Iraqi Embassy in Stockholm, or if the person holding the passport can prove that he or she has obtained the passport legally in Iraq by, among other things, showing travel documents and

⁶ Id. 4 §. (Translation by author.)

⁷ For a list of recognized travel documents, see Council of the European Union, *Recognized Travel Documents*, <https://perma.cc/8E4A-6VK7>; Council of the European Union, *Part III: Travel Documents Issued by International Organisations and Other Entities Subject to International Law*, <https://perma.cc/3V4B-8N4E>.

⁸ *Part III: Travel Documents Issued by International Organisations and Other Entities Subject to International Law*, supra note 7.

⁹ Id.

¹⁰ Id.

¹¹ *Registrering i folkbokföringen av uppgifter om identitet, familj m.m. med stöd av handlingar från Irak*, Skatteverket, <https://perma.cc/MB7D-RCWL>.

¹² *Registrering i folkbokföringen av uppgifter om identitet, familj m.m. med stöd av handlingar från Syrien*, Skatteverket, <https://perma.cc/7DHG-WZLP>.

¹³ *Migrationsverkets Bedömning av Identitetsdokument*, Migrationsverket, <https://perma.cc/833L-SNZZ>.

other proof that the passport was picked up in person.¹⁴ Somali passports issued after 1991 are not recognized.¹⁵

II. Recognition of Passports Issued by Alternative Governments

The list mentioned above of specifically recognized passports does not include breakaway regions or disputed territories, but Swedish law provides for the recognition of any passport when special reasons (*särskilda skäl*) apply.¹⁶ Such special reasons may include the circumstance that the Swedish Migration Authority has approved an application for asylum for the holder of the passport.¹⁷

Sweden may also recognize passports issued by a country other than that of the person's citizenship, provided that the passport meets all other requirements of a passport as specified in 2 chapter. 4 § UTL.¹⁸

Sweden recognized Palestine as a separate state in 2014.¹⁹ Thus, Palestinian passports issued by the Palestinian Authority are recognized by Swedish authorities, provided they meet the conditions stated above. However, per Migration Authority guidelines, Sweden does not recognize Palestinian "00" passports issued by the Palestinian Authority for nonresident Palestinians.²⁰

III. Recognition of Irregular Passport Extension

No information regarding Swedish recognition of passport extensions by foreign governments after the expiration of a passport has been located. The Migration Authority has issued country information on Venezuela, which includes statements that its passports have been automatically extended by the government but does not address whether Sweden recognizes such extensions. Seemingly, the only European Union (EU) region that specifically does not recognize Venezuelan passports extended without a sticker as of November 2019 is Benelux (Belgium, the Netherlands, and Luxemburg).²¹

¹⁴ *Registrering i folkbokföringen av uppgifter om identitet, familj m.m. med stöd av handlingar från Irak*, supra note 11.

¹⁵ *Migrationsverkets Bedömning av Identitetsdokument*, supra note 13.

¹⁶ 5 § MIGRFS 01/2016.

¹⁷ 5 § *Allmänna råd* MIGRFS 01/2016.

¹⁸ 2 kap. 18 Utlänningsförordningen.

¹⁹ Press Release, Regeringen, Sverige erkänner Palestina och ökar biståndet (Oct. 30, 2014), <https://perma.cc/U2E5-RU5F>.

²⁰ *Migrationsverkets Bedömning av Identitetsdokument*, supra note 13.

²¹ Council of the European Union, *Part I: Travel Documents Issued by Third Countries and Territorial Entities*, <https://perma.cc/6YPN-CWYP>.

IV. Issuance of Alternative Travel Documents

As per international obligations under the 1951 Geneva Convention on the Status of Refugees, the 1954 New York Convention, and the 1957 Convention on Refugee Seamen, Sweden must issue international travel documents (*Resedokument*) to recognized refugees and stateless persons.²² In addition, Sweden issues passports to foreigners who do not have recognized passports.²³ Sweden issues two different types of passports to foreigners: Alien's Passports (*främlingspass*) and Temporary Alien's Passports (*provisoriskt främlingspass*).²⁴ Travel documents for refugees and Alien's Passports are valid for up to five years.²⁵ Both may be geographically restricted, i.e., not usable for travel to certain areas.²⁶ Specific requirements for the Alien's Passport, including the requirement that it store biometric information, are provided in Migration Authority Regulation 03/2017 on Alien's Passports and Travel Documents.²⁷ Alien's Passports and Temporary Alien's Passports are subject to the limits on issuance of passports specified in the Passport Act and the Passport Regulation, including that passports may not be issued to persons who have been convicted of certain crimes or who are considered a security risk.²⁸

A. Politically Persecuted Persons

1. Refugees and Stateless Persons

Refugees as classified under the 1951 Geneva Convention, and stateless persons who meet the requirements of the 1954 New York Convention, must be issued a travel document recognized as a passport in the EU and valid for five years.²⁹

²² 7 § Utlänningsförordning, stating that: "A travel document must be issued in those instances specified in the Convention of July 28, 1951, on the Legal Status of Refugees (SÖ 1954:55), Convention of September 28, 1954, on the Legal Status of Stateless Persons (SÖ 1965:54) or Convention of November 23, 1957, regarding refugees who are seamen (SÖ 1959:16). Convention Relating to the Status of Refugees, July 28, 1951, 189 U.N.T.S. 137 (Refugee Convention), <https://perma.cc/B6S7-FMWU>; Convention Relating to the Status of Stateless Persons, Sept. 23, 1954, 360 U.N.T.S. 117 (Stateless Persons Convention), <https://perma.cc/5547-Q3U2>; Convention Relating to Refugee Seamen, Nov. 23, 1957, 284 U.N.T.S. 126 (Seamen Refugee Convention), <https://perma.cc/W26C-F6XP>.

²³ 2 kap. 1 a § Utlänningslag (SFS 2005:716); 2 kap. 13 Utlänningsförordning.

²⁴ Migrationsverkets föreskrifter om främlingspass och resedokument (MIGRFS 03/2017), <https://perma.cc/537X-N4AA>. See also *Provisoriskt Främlingspass*, Migrationsverket, <https://perma.cc/77TV-BA2Q>; *Apply for an Alien's Passport*, Migrationsverket, <https://perma.cc/7PZN-22HA>.

²⁵ 2 kap. 13 § Utlänningsförordningen.

²⁶ Id.

²⁷ 11 § MIGRFS 03/2017.

²⁸ 9 § MIGRFS 03/2017; 8, 21 §§ Passlagen (SFS 1978:302), <https://perma.cc/J7YY-CNMK>; 3 § Passförordning (SFS 1979:664), <https://perma.cc/H2JP-H7NU>.

²⁹ 2 kap. 7, 13 §§ Utlänningsförordning. See also *Ansök om resedokument*, Migrationsverket, <https://perma.cc/3ET7-WH5J>.

2. *Asylum Seekers*

Asylum seekers may be issued Alien's Passports, provided their asylum application is based on political or governmental persecution.³⁰ If the asylum application is based on other issues, such as honor-related crimes or environmental disasters, the asylum seeker must apply for a travel document with the government (typically an embassy) of their country of citizenship.³¹ Asylum seekers who claim political persecution are issued Alien's Passports ineligible for travel to the person's home country/country of citizenship.³²

B. Other Persons

In addition to refugees and asylum seekers, the Swedish Migration Authority also issues Temporary Alien's Passports to persons who cannot obtain other travel documents, including Alien's Passports.³³ Typically, Temporary Alien's Passports are only valid for one specific trip, i.e., either to leave Sweden or for one return trip to Sweden.³⁴ The cost of a Temporary Alien's Passport is SEK 500 (about US\$58).³⁵

1. *Residents of Sweden Traveling Abroad*

Residents of Sweden who are stranded abroad following a loss of a travel document may apply for a Temporary Alien's Passport at a Swedish Embassy.³⁶

2. *Passport Seekers*

Swedish authorities will, for one time only, issue a Temporary Alien's Passport for the purpose of enabling the holder to travel abroad to apply for a passport from his or her country of citizenship.³⁷

3. *Foreigners with Immediate Travel Needs*

Foreigners who would regularly be able to obtain a home country passport or an Alien's Passport may apply for a Temporary Alien's Passport if they have an immediate need to travel and cannot obtain their required travel document in time for the trip.³⁸ Issuance of this form of Temporary

³⁰ 2 kap. 1a § UTL. See also *Apply for an Alien's Passport*, supra note 24.

³¹ 2 kap. 1s § UTL e contrario. See also *Apply for an Alien's Passport*, supra note 24.

³² 2 kap. 13 § Utlänningsförordning.

³³ 2 kap. 1 a § UTL; 2 kap. 14 Utlänningsförordning. See also *Provisoriskt Främlingspass*, supra note 24.

³⁴ *Provisoriskt Främlingspass*, supra note 24.

³⁵ *Avgifter för främlingspass och resedokument*, Migrationsverket, <https://perma.cc/4BJ7-FAH9>.

³⁶ *Provisoriskt Främlingspass*, supra note 24.

³⁷ Id.

³⁸ 2 kap. 14 § Utlänningsförordning.

Alien's Passport is discretionary, and the passport seeker must establish why he or she is in need of a passport.³⁹

4. *Persons Returning to Home Country for Specific Purpose*

In very limited circumstances, Swedish authorities may issue an Alien's Passport for a temporary visit to a home country for compelling reasons.⁴⁰

5. *Persons Ineligible for Alien's Passports*

Persons who are ineligible to receive an ordinary Alien's Passport (for example, due to a previous criminal conviction) may in very limited instances after proving compelling reasons (*särskilda skäl* or *ömmande skäl*) receive a Temporary Alien's Passport.⁴¹

6. *European Citizens Abroad*

In accordance with EU law, Swedish embassies abroad must issue temporary travel documents to EU citizens when they cannot receive such travel documents from their country of citizenship.⁴²

³⁹ *Provisoriskt Främlingspass*, supra note 24.

⁴⁰ 2 kap. 14 § Utlänningsförordning. See also *Provisoriskt Främlingspass*, supra note 24.

⁴¹ 2 kap. 14 § Utlänningsförordning; *Provisoriskt Främlingspass*, supra note 24.

⁴² 1-5 §§ Förordning om Europeiska unionens provisoriska resehandling (SFS 1997:698), <https://perma.cc/9FJT-UCVX>.

Turkey

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SUMMARY Foreigners may enter or stay in Turkey only if they are in possession of a valid and recognized passport or passport substitute. The Ministry of Internal Affairs and the Ministry of Foreign Affairs are jointly competent in determining which passports and passport substitutes will be recognized. Turkey recognizes passports issued by the Turkish Republic of Northern Cyprus, the Republic of Cyprus, the Republic of Kosovo, the Palestinian National Authority, Taiwan, and the Chinese special administrative regions of Hong Kong and Macau. Turkey exceptionally allows expired passports issued by Belgium, France, Germany, Luxembourg, Portugal, Spain, and Switzerland to be used in border crossing in accordance with the European Agreement on Regulations Governing the Movement of Persons Between Member States of the Council of Europe.

Turkey issues travel documents to refugees originating from Europe under the Geneva Convention Relating to the Status of Refugees of 1951, and “foreigner passports” to “conditional refugees,” persons granted “subsidiary protection” status, and persons granted “temporary protection,” which are categories of international protection provided by Turkish domestic laws supplementing the Geneva Convention regime. “Foreigner passports” may also be issued to stateless persons and persons with irregular nationality status.

I. Introduction

The legal framework governing foreigners’ entry and stay in Turkey is set forth in the Law on Foreigners and International Protection (LFIP), its implementing regulation (RILFIP), and the Passport Law (PL).¹ The general rule is that foreigners must enter into and exit from Turkey through designated border crossing points while in possession of a valid passport or a passport substitute.² The LFIP requires the Ministry of Internal Affairs to take the necessary measures to ensure that the general rule is not applied in a manner that impedes foreigners from applying for international protection in border crossing points.³ The Ministry of Internal Affairs and the Ministry of Foreign Affairs are jointly competent in determining which passports and passport

¹ Yabancılar ve Uluslararası Koruma Kanunu [LFIP], Law No. 6458 (Official Gazette [O.G.] No. 28615, Apr. 11, 2013), <https://perma.cc/Q5SS-MAZS>; Yabancılar ve Uluslararası Koruma Kanununun Uygulanmasına İlişkin Yönetmelik [RILFIP] (O.G. No. 29656, Mar. 17, 2016); <https://perma.cc/B3H7-ZLX7>; Pasaport Kanunu [PL] Law No. 5682 (O.G. No. 7564, July 24, 1950), <https://perma.cc/M9BH-L3JL>.

² LFIP art. 5; RILFIP art. 5; PL art. 2(1).

³ LFIP art. 5.

substitutes will be recognized other than those determined by law or international treaty to which Turkey is a party.⁴

Turkey's president has broad authority to adopt additional rules and measures conditioning or limiting the entry of foreigners into the country.⁵

The Ministry of Internal Affairs may issue special passports for stateless persons and other persons whom the ministry finds it necessary to treat as stateless due to their irregular nationality status.⁶

II. Recognition of Passports Issued by Alternative Governments

Turkey recognizes the Turkish Republic of Northern Cyprus (TRNC) as an independent state.⁷ Valid passports issued by the TRNC may be used to enter Turkey.⁸ Although Turkey does not recognize the otherwise internationally recognized Republic of Cyprus, passports issued by the government of that state are recognized.⁹ Turkey recognizes Palestine as an independent state, and passports issued by the Palestinian National Authority are recognized.¹⁰ Passports issued by Taiwan and the Chinese special administrative regions of Hong Kong and Macau are recognized, as are the Hong Kong Document of Identity for Visa Purposes and the British National Overseas passport for Hong Kong residents.¹¹ Turkey recognizes the Republic of Kosovo and the passport issued by its government.¹²

III. Recognition of Irregular Passport Extension

Research yielded no specific rules regarding the recognition of an irregular passport extension. However, Turkey allows the use of expired passports or identification cards issued by a number of countries by their nationals in their entry or exit through border crossing points, in

⁴ PL art. 2(3).

⁵ LFIP art. 18(c).

⁶ PL art. 18.

⁷ *The Cyprus Issue (Overview)*, Ministry of Foreign Aff. of Turkey, <https://perma.cc/M37E-GYFC>.

⁸ Authoritative decisions of the Ministry of Foreign Affairs and the Ministry of Internal Affairs on which passports or passport substitutes are recognized at border crossing points and for the purposes of stay are issued as administrative orders that are not published in the Official Gazette, but are uploaded to the police network that is not publicly accessible. See, e.g., *2019 Yılı Turizm Sezonu Uygulamaları* (Ministry of Internal Aff. Gen. Directorate of Sec., Circular No. 2019/14 EGM, May 15, 2019), <https://perma.cc/KFR3-FUAS>. The Ministry of Foreign Affairs publishes publicly available list of travel documents on its website. See *Yabancıların Tabi Olduğu Vize Rejimi*, Ministry of Foreign Aff. of Turkey, <https://perma.cc/7Q76-W7YN>.

⁹ Id.

¹⁰ Id.

¹¹ Id.

¹² Id.

accordance with treaty obligations.¹³ Accordingly, passports or identification cards issued by Germany that have expired within one year, and passports issued by Belgium, France, Luxembourg, Portugal, Spain, and Switzerland that have expired within five years, are recognized as valid for travel by Turkey.¹⁴

IV. Issuance of Alternative Travel Documents

A. Politically Persecuted Persons

Turkey issues two types of travel documents to persons granted international protection, according to the status they are granted under Turkish international protection law. The two types of documents are the travel document for “convention refugees” and “foreigner passports.”

1. Travel Document for Convention Refugees

Turkey is a party to the Geneva Convention Relating to the Status of Refugees of 1951 (Refugee Convention) and the 1954 Convention Relating to the Status of Stateless Persons, and it has implemented them in its law. In accordance with its treaty obligation under the Refugee Convention, Turkey issues travel documents for persons who are granted convention refugee status. However, as Turkey has not joined the protocols broadening the original geographic limitations of the Refugee Convention, convention refugee status is only available to asylum seekers originating from Europe. For persons seeking international protection who are not eligible for convention refugee status, the LFIP framework provides additional categories of protection, namely, “conditional refugee,” “subsidiary protection,” and “temporary protection.”¹⁵ Stateless persons and persons who are granted one of the LFIP’s additional categories of protection are not eligible for the travel document of convention refugees, but they might be issued a foreigner passport, as explained below.

¹³ European Agreement on Regulations Governing the Movement of Persons Between Member States of the Council of Europe, E.T.S. No. 25 (Dec. 13, 1957, Paris) (ratified by Turkey on May 25, 1961), <https://perma.cc/8HU9-TQ9P>; *Vatandaşları süresi sona ermiş pasaport ve kimlik kartlarıyla ülkemize girebilen ülkeler listesi*, Foreign Ministry of Turkey, <https://perma.cc/M3Q4-J4ZR>.

¹⁴ Id.

¹⁵ LFIP arts. 62, 63, and 91, respectively. Conditional refugee status is granted to asylum seekers originating outside of Europe, with the eventual objective of transferring these persons to a safe third country. Id. art. 62. The conditions under which a person becomes eligible for this status mirror the conditions required for asylum under the Refugee Convention; the difference lies in the expectation that conditional refugees will be transferred to a third country, which is not the fact for convention refugees. Id. Subsidiary protection status is granted to persons who are not eligible for refugee status but if returned to their country of origin would: (1) be sentenced to death, or face the execution of the death penalty; (2) face torture or inhuman or degrading treatment or punishment, or (3) face serious threat to their self by reason of indiscriminate violence in situations of international or nationwide armed conflict. Id. art. 63. Temporary protection status is granted to “foreigners who have been forced to leave their country, cannot return to the country that they have left, and have arrived at or crossed the borders of Turkey in a mass influx situation seeking immediate and temporary protection.” Id. art. 91. Citizens of the Syrian Arab Republic, asylum seekers, and stateless persons, who originate from Syria as a result of the events occurring since Apr. 28, 2011, are granted protection only under the temporary protection status. Regulation on Temporary Protection, Council of Ministers No. 2014/6883 (O.G. No. 29153, Oct. 22, 2014), temporary art. 1, <https://perma.cc/7PCA-3L6Z>.

2. *Foreigner Passports*

The Ministry of Internal Affairs is authorized to issue two types of foreigner passports to five categories of persons: (1) stateless persons,¹⁶ (2) persons who the ministry decides must be treated as stateless in procedures related to travel and residence due to irregularities in their nationality status,¹⁷ (3) “conditional refugees,”¹⁸ (4) persons granted “subsidiary protection” status,¹⁹ and (5) persons granted “temporary protection.”²⁰ The issuance of a foreigner passport does not grant citizenship rights to the holder.²¹

The first type of foreigner passport is valid for only one entry into, or exit from, Turkey.²² These passports are only valid for a month; the entry-only passport must be used to enter Turkey within a month of its issuance, and the exit-only passport must be used within a month to exit Turkey to travel to the country designated in the document.²³ If the passports are not used within a month of their issuance, they must be renewed; renewals two months after expiry require a new approval by the ministry.²⁴ The second type of passport is good for one entry and one exit only; the ministry has discretion to determine the validity of this type of foreigner’s passport (minimum validity is three months).²⁵ Both types of passports are also valid for the entry or exit of the minor unemployed children and the spouse of the passport holder who may be registered on the document and are traveling with the holder.²⁶

B. Other Persons

Turkish citizens resident in border zones of neighboring countries may be issued a temporary border pass (*pasavan*, from *passavant* (fr.)) in accordance with bilateral agreements to be used while traveling between Turkey and the border zones of those countries.²⁷ Border passes are issued at the border crossing point to persons who must cross the border to pursue their necessary businesses or in cases of emergency.²⁸

¹⁶ PL art. 18.

¹⁷ Id.

¹⁸ LFIP art. 84.

¹⁹ Id.

²⁰ Regulation on Temporary Protection, *supra* note 15, art. 43. For definitions of categories (3)-(5), see note 15, *supra*.

²¹ PL art. 18(1).

²² Id. art. 18(2).

²³ PL art. 18(2)(A).

²⁴ Id. art. 18(2)(A) and art. 18(3).

²⁵ Id. art. 18(2)(B).

²⁶ Id. art. 18(5).

²⁷ PL art. 19.

²⁸ Pasaport Kanununun Uygulanmasına Dair Yönetmelik (O.G. No. 29088, Aug. 14, 2014), art. 11(1), <https://perma.cc/AG3G-NE7E>.

United Kingdom

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SUMMARY The United Kingdom (UK) has made provision to enable citizens of several countries it does not recognize to enter the UK either on a visa, or by recognizing travel documents issued by the national authorities of these countries as proof of identity. The UK has recognized the passports of some countries past the expiration date where issues within the country of nationality prevent holders from obtaining a new passport, as in the case of citizens of Venezuela.

The UK issues four types of travel documents for individuals lawfully resident and present in the UK who cannot obtain travel documents from their country of origin: Convention travel documents, for individuals who have been recognized as a refugee; stateless persons' documents, for individuals recognized as being stateless; a certificate of travel for individuals who have been unreasonably refused a passport by their own national authorities; and a "one-way document" for individuals who wish to leave the UK and not return.

I. Introduction

In the United Kingdom, the recognition of a foreign nation is distinct from the recognition of a foreign passport:

[a]cceptance of passports and other official documentation is not necessarily dependent upon recognition of Statehood, although governments sometimes take a stand through that medium, and travel to or from some countries may be excluded.¹

Visitors arriving in the UK from foreign countries must present a valid passport or other travel document to an immigration officer upon arrival.² A passport is defined as a document that

- a) is issued by or on behalf of the government of any country recognised by the UK, or dealt with as a government by the UK, and which complies with international passport practice; and
- b) shows both the identity and nationality of the holder; and
- c) gives the holder the right to enter the country of the government which issued the document; and
- d) is authentic and not unofficially altered or tampered with; and

¹ Andrew Grossman, *Nationality and the Unrecognised State*, 50 Int'l & Comp. L.Q. 849, 861 (2001) (accessed via LexisNexis).

² Immigration Rules, Part 1, ¶ 11, <https://perma.cc/UE7F-TCWS>.

Recognition of Foreign Passports: United Kingdom

- e) is not damaged in a way that compromises the integrity of the document; and
- f) has not expired.³

The Immigration Rules further provide:

Permission to enter may be refused if the person seeking entry produces a passport or other travel document which:

- (a) was issued by a territorial entity or authority which is not recognised by Her Majesty's Government as a state, or is not dealt with as a government by them; or
- (b) was issued by a territorial entity or authority which does not accept valid UK passports for the purpose of its own immigration controls; or
- (c) does not comply with international passport practice.⁴

The UK's Immigration Rules provide that individuals seeking to enter the UK must be refused entry if they cannot produce a valid national passport or other travel document that establishes their identity and nationality to the satisfaction of the immigration officer.⁵ There are exceptions to this rule that apply to individuals holding "a travel document issued by the national authority of a state of which the person is not a national and the person's statelessness or other status prevents the person from obtaining a document satisfactorily establishing their identity and nationality."⁶

Any entry clearance obtained prior to entering the UK may be canceled at the discretion of the immigration officer⁷ if the traveler cannot produce valid travel documents.⁸ UK Visas & Immigration states that a bona fide passport or travel document must contain a photograph; the name; date of birth; nationality (or a disclaimer if the holder is stateless or has undetermined nationality) of the holder and be valid for travel to the UK⁹ and that if a valid passport or travel document cannot be produced upon arrival, the immigration officer at the port of entry must refuse permission to enter, unless an exception exists.¹⁰

³ Home Office, *Suitability: Refusal of Entry on Arrival in the United Kingdom and Cancellation of Extant Entry Clearance or Permission* 11 (Dec. 1, 2020), <https://perma.cc/V669-XBHF>.

⁴ Immigration Rules, Part 9, ¶ 9.15.2, <https://perma.cc/52JT-T7J8>.

⁵ Id. Part 9, ¶ 9.15.1.

⁶ Id.

⁷ Home Office, *Suitability: Refusal of Entry on Arrival in the United Kingdom and Cancellation of Extant Entry Clearance or Permission*, supra note 3, at 14.

⁸ Immigration Rules, Part 9, ¶ 9.15.3.

⁹ UK Visas & Immigration, *Guidance ECB08: What are Acceptable Travel Documents for Entry Clearance* (Nov. 26, 2013), <https://perma.cc/AT3B-8VGN>.

¹⁰ Immigration Rules, supra note 4 ¶ 9.15.1. See also Home Office, *Suitability: Refusal of Entry on Arrival in the United Kingdom and Cancellation of Extant Entry Clearance or Permission*, supra note 3.

II. Recognition of Passports Issued by Alternative Governments

The UK currently recognizes 199 countries¹¹ and does not recognize passports or travel documents issued from the following authorities:

- Turkish Republic of Northern Cyprus (TRNC) documents
- Republic of China (Nationalist China – Taiwan) passports
- Somali passports
- Yemen (Royalist authorities) documents
- Iraq (S-, M- and N- series passports)
- South African temporary passports.¹²

As noted above, the Immigration Rules provide that individuals presenting travel documents issued by a national authority not recognized by the UK may be refused permission to enter the country.¹³ Official guidance notes that if a person seeks to enter the UK using a passport or a travel document from one of the national authorities listed above, unless otherwise stated, the immigration officer should refuse permission to enter under the Immigration Rules unless the individual has a Uniform Format Form (UFF) or has current UK entry clearance.¹⁴

The UK enables residents of unrecognized countries to enter the UK through the issuance of visas. Individuals from countries requiring a visa must produce either a “valid passport or other identity document endorsed with a United Kingdom entry clearance”¹⁵ or “a United Kingdom entry clearance which was issued to him in electronic form for the purpose for which he seeks entry and which is still in force, [and] produce to the Immigration Officer a valid passport or other identity document”¹⁶ in order to enter the UK. The guidance notes that entry clearance should not typically be placed in the passports or travel documents issued by these national authorities and, instead, must be attached to a UFF, which must be issued alongside a travel document where possible.¹⁷

¹¹ *Country Register*, Gov.uk, <https://perma.cc/T84T-TU4E>.

¹² Home Office, *Suitability: Refusal of Entry on Arrival in the United Kingdom and Cancellation of Extant Entry Clearance or Permission*, supra note 3, at 11.

¹³ Immigration Rules, Part 9, ¶ 9.15.2.

¹⁴ Home Office, *Suitability: Refusal of Entry on Arrival in the United Kingdom and Cancellation of Extant Entry Clearance or Permission*, supra note 3, at 12-13.

¹⁵ Immigration Rules, Part 1, ¶ 24(i).

¹⁶ Id. ¶ 24(ii); Immigration Act 1971, c. 77, § 3A, <https://perma.cc/9KFJ-4NM4>; Immigration (Leave to Enter and Remain) Order 2000, SI 2000/1161, <https://perma.cc/3LFQ-F9R2>.

¹⁷ Immigration Rules, supra note 4. See also 584 Parl. Deb. (HL) (5th Ser.) (1998) WA205, <https://perma.cc/ZGE6-A2VW>; UK Visas & Immigration, *Guidance ECB08*, supra note 9; Home Office, *Suitability: Refusal of Entry on Arrival in the United Kingdom and Cancellation of Extant Entry Clearance or Permission*, supra note 3, at 12.

A. Turkish Republic of Northern Cyprus

The UK does not recognize the Turkish Republic of Northern Cyprus as a national authority but has, in the past, accepted travel documents from the territory as proof of identity and did not require holders to obtain a visa to enter the UK for short visits. The admission of these individuals without a visa was reportedly a concession on the basis that the UK recognized these individuals as citizens of Cyprus, a country it does recognize. The UK “regards passports issued by the Turkish Republic of Northern Cyprus as no more than evidence of identity and not as constituting recognition of separate nationality. No official United Kingdom stamps are placed in such passports.”¹⁸ Guidance to immigration officers states that they should not endorse the passports of these individuals but instead, where entry clearance is granted, endorse the accompanying UFF.¹⁹ Visas of individuals entering the country for longer periods of time are affixed in a separate document. In 1998, after a number of individuals from this territory made asylum claims determined to be unfounded,²⁰ all holders of these documents were required to obtain a visa prior to entering the UK.²¹ This Order was later revoked.²²

B. Taiwan (Republic of China)

The UK does not recognize Taiwan as a state, or Taiwanese as a nationality. However, it does not require holders of Taiwanese passports to obtain entry clearance to enter the UK and permits immigration officers to endorse Taiwanese passports, with the exception of official or diplomatic passports, provided they contain an identification card number.²³ Holders of official or diplomatic passports may be granted entry on a separate document, form IS.116, instead of having their passports endorsed.

C. Palestinian Territories

While the UK does not recognize Palestine as a state, it does recognize the Palestinian Authority as the government of the Palestinian territories. The UK recognizes travel documents issued by the Palestinian Authority and holders may travel to the UK on these documents provided they have a valid UK entry clearance. Immigration officers may endorse the Palestinian Authority travel document.²⁴

¹⁸ *Caglar v Billingham* (Inspector of Taxes) [1996] STC (SCD) 150, [1996] 1 LRC 526 ¶ 51 (accessed via LexisNexis).

¹⁹ Home Office, *Suitability: Refusal of Entry on Arrival in the United Kingdom and Cancellation of Extant Entry Clearance or Permission*, supra note 3, at 13.

²⁰ 584 Parl. Deb. (HL) (5th Ser.) (1998) WA205, <https://perma.cc/ZGE6-A2VW>.

²¹ Immigration (Transit Visa) (Amendment) Order 1998, SI 1998/55, <https://perma.cc/GQ8E-AMNC>. This order was later revoked and visa travel is currently regulated by Immigration (Passenger Transit Visa) Order 2014, SI 2014/2072, <https://perma.cc/9HCX-3GG2>.

²² Home Office, *Home Office Travel Documents* 5 (Ver. 6.0, Oct. 29, 2013), <https://perma.cc/S6FN-Z2H2>.

²³ Home Office, *Suitability: Refusal of Entry on Arrival in the United Kingdom and Cancellation of Extant Entry Clearance or Permission*, supra note 3, at 13.

²⁴ *Id.*

III. Recognition of Irregular Passport Extension

The Immigration Rules provide that individuals attempting to enter the UK on an expired passport should be denied entry, even if the passport has an entry clearance in it.²⁵ There are limited exceptions to this rule where the UK allows immigration officers to recognize the passports of specified countries past the expiration date due to issues within the country of nationality preventing holders from obtaining a new passport.

For example, the UK accepts Venezuelan passports as valid that were issued or expired on or prior to May 21, 2019, for up to 10 years from the date the passport was issued.²⁶ It requires visas from nationals who do not hold a biometric, machine-readable passport, due to concerns over how easy it is to forge or otherwise obtain the old-style passports. UK Visas & Immigration has stated, “[o]ur assessment is that their new-style passports are secure and that the new visa requirement is proportionate to the remaining risk posed by the old-style passports.”²⁷

IV. Issuance of Alternative Travel Documents

The Home Office issues four different types of travel documents, collectively known as Home Office travel documents (HOTD), to the following categories of individuals who cannot use or obtain a passport from their home country and who are both lawfully resident and present in the UK:

- a person recognized as a refugee under the 1951 United Nations Convention Relating to the Status of Refugees, or a person who has come to the UK on a Family Reunion visa to join a refugee in the UK;
- a stateless person under the 1954 United Nations Convention Relating to the Status of Stateless Persons;
- a failed asylum seeker with humanitarian protection for a limited time;
- a failed asylum seeker with discretionary leave for a limited time; and
- a person with indefinite leave to remain in the UK (permanent residence).²⁸

The four types of travel document are Convention travel documents (CTDs) for those with refugee status; stateless persons’ documents (SPD) for stateless individuals; a certificate of travel (COT, formerly known as a certificate of identity (CID)), for individuals who have been refused

²⁵ Immigration Rules, Part 9, ¶ 9.15.1. See also Home Office, *Suitability: Refusal of Entry on Arrival in the United Kingdom and Cancellation of Extant Entry Clearance or Permission*, supra note 3, at 14.

²⁶ UK Visas & Immigration, *Announcement by UK Visas and Immigration Regarding the Validity of Venezuelan Passports*, (Aug. 7, 2020), <https://perma.cc/VC5Q-U84K>.

²⁷ Id.

²⁸ *Apply for a Home Office Travel Document*, Gov.uk, <https://perma.cc/A6TD-22LL>.

a passport by their own national authorities, and a “one-way document” for individuals wishing to leave the UK and not return.²⁹

Since 2012, all applicants for these documents must have a valid biometric residence permit.³⁰ When HOTDs are issued, the Home Office must retain any national passport held by the individual for safe keeping. If there is evidence the holder continues to hold a passport or other travel document issued by any other national authority, the Home Office may withdraw the HOTD.³¹ When these travel documents expire, they may be renewed by the holder, who must be present in the UK.³²

A. Politically Persecuted Persons

1. Refugees

The UK issues CTDs to individuals who are recognized as refugees in accordance with the terms of the United Nations Convention relating to the Status of Refugees. CTDs enable holders to travel to any country other than the holder’s country of origin. These documents are issued to individuals who are recognized as a refugee, or who have entered the UK on a family reunion visa to join a recognized refugee in the UK where there are no compelling reasons of national security or public order that would prohibit the issuance of these documents.³³ CTDs are typically valid for up to ten years, or the amount of time the refugee has leave to remain in the UK.

2. Asylum-seekers

There do not appear to be any specific travel documents available from the Home Office for asylum seekers who have not yet been recognized as a refugee. Failed asylum seekers who have been granted humanitarian protection or discretionary leave to remain for a limited time may be issued with a COT,³⁴ described in section B below.

Any asylum seeker found to be stateless may be issued an SPD, described below. Asylum seekers may also voluntarily seek a “one-way document” that is valid for one journey out of the UK, described below.

²⁹ Id.

³⁰ UK Visas & Immigration, *TD112 BRP Guidance Notes 1* (Nov. 2018), <https://perma.cc/4YAX-ND5D>. See also *Biometric Resident Permits (BRPs)*, Gov.uk, <https://perma.cc/FQ3S-X3XZ>.

³¹ Home Office, *Home Office Travel Documents*, supra note 22, at 38 & 49.

³² UK Visas & Immigration, *Guidance ECB08*, supra note 9.

³³ UK Visas & Immigration, *TD112 BRP Guidance Notes*, supra note 30, at 2; Immigration Rules, Part 11 ¶ 344A(i), <https://perma.cc/LG97-3PB5>.

³⁴ Immigration Rules, Part 11 ¶ 344A.

3. *Stateless Persons*

The UK issues SPDs to individuals who are “not considered as a national by any state under the operation of its law.”³⁵ This document is valid for up to ten years and typically enable the holder to travel to other countries.³⁶ An SPD may be withdrawn prior to its expiration if the holder does not have valid permission to remain in the UK.

B. Other Persons

1. *Certificate of Travel*

The UK at the discretion of the Secretary of State may, unless there are “compelling reasons of national security or public order,”³⁷ issue a COT to individuals who have been unable to obtain a passport or other identity document that would allow travel from their own national authorities.³⁸ These documents are issued where:

applicants [] have been formally and unreasonably refused a passport by their own authorities and have either been:

- granted indefinite leave to enter or remain in the UK, or
- refused asylum, but granted humanitarian protection or discretionary leave to remain in the UK.³⁹

When applying for a COT the applicant must provide documentary evidence that the government of their country of nationality has formally refused to issue them a passport and the Secretary of State must be of the view that this refusal is unreasonable.⁴⁰ The burden of proof is on the applicant to show that the refusal is unreasonable, and the government has provided guidance to circumstances it considers reasonable for the country of nationality to refuse to issue a passport, including that the applicant:

- i. did not provide evidence to confirm their identity and nationality,
- ii. is required to complete required military service; or
- iii. has a criminal record in their country
- iii. did not comply with tax legislation in their home country.⁴¹

³⁵ Home Office, *Home Office Travel Documents*, supra note 22, at 7.

³⁶ UK Visas & Immigration, *TD112 BRP Guidance Notes*, supra note 30, at 4.

³⁷ Immigration Rules, Part 11 ¶ 344A(ii),

³⁸ Id. ¶¶ 344A(ii) & 352ZR.

³⁹ Home Office, *Home Office Travel Documents*, supra note 22, at 8.

⁴⁰ UK Visas & Immigration, *TD112 BRP Guidance Notes*, supra note 30, at 2.

⁴¹ Id.

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The government notes that exceptions are made to the documentary requirements for individuals who have been granted humanitarian protection following a failed asylum application “where it has been accepted that such persons have a fear of the authorities of their country.”⁴²

A COT may be valid to enter any country, but the Home Office encourages holders to check if the country the holder wishes to enter using the document accepts it prior to travel.⁴³

2. *One-way Travel Document*

This document is available to any person present in the UK who is not a British citizen, who does not have a passport or other travel document, and who wishes “to leave the UK permanently and voluntarily.”⁴⁴ The individual seeking to obtain this document must provide proof of their identity in order to obtain it but are not required to obtain a BRP. These travel documents are valid for one year, but intended for immediate use and may only be used for a single journey out of the UK.⁴⁵

⁴² Id. at 3.

⁴³ Id.

⁴⁴ Home Office, *Home Office Travel Documents*, supra note 22, at 9.

⁴⁵ UK Visas & Immigration, *TD112 BRP Guidance Notes*, supra note 30, at 4.

United States

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SUMMARY The United States does not grant passports to individuals who do not owe it allegiance, and it has been firm about this policy for over 100 years. Under certain conditions, the United States will grant documents to allow individuals who do not have a United States passport, legal permanent resident status, or a valid current United States visa to return to the United States after traveling outside the country. The United States has accepted for entry passports issued by political entities it does not officially recognize. The United States regularly agrees to accept certain passports that will expire within six months of a visitor's entry date, and it has made arrangements to accept passports that have been extended by governments that are unable to regularly renew the passports of their citizens.

I. Introduction

An individual must owe allegiance to the United States to acquire a United States passport.¹ The United States does issue travel documentation to individuals who are legally residing in the country but who do not qualify for a United States passport.

Visitors from another country are required to present a current national passport, valid for at least six months beyond the stated date of departure from the United States, or another valid travel document, before entering the United States.²

II. Recognition of Passports Issued by Alternative Governments

The United States government has recognized the issuance of travel documents, promoted as passports, by political authorities that it does not officially recognize.

A. Palestinian Authority

The United States does not recognize the Palestinian Authority as an independent state, therefore, it will not accept the legal status of a passport issued by that government. However, the United States accepts travel documents issued by the Palestinian Authority for the purpose of an individual being issued a visa to enter the United States. The travel document is also referred to as a "Palestinian passport."³

¹ 22 U.S.C. § 212 (2018).

² 8 U.S.C. §1182(a)(7)(B)(i)(I) (2018).

³ *Resource Information Center: Palestine*, U.S. Customs & Immigr. Serv. (Dec. 12, 1998), <https://perma.cc/W3SF-9YD6>.

B. Republic of China/Taiwan

The United States ended formal diplomatic relations with the Republic of China on January 1, 1979, when it recognized the government of the Peoples Republic of China. The governing officials in Taiwan continue to issue passports to citizens to use in international travel. The United States accepts such passports for entering and departing the country.⁴

C. Baltic States

The United States government refused to recognize the forcible annexation of the Baltic States, Estonia, Lithuania, and Latvia, by the Union of Soviet Socialist Republics in 1940, and it continued to treat local envoys from the three governments-in-exile as fully functioning diplomatic personnel, with the power to issue passports to citizens and renew passports as needed.⁵

III. Recognition of Irregular Passport Extension

The United States has recognized the validity of expired passports under certain conditions. It has entered into agreements with a number of countries to accept the validity of passports for entry that will expire within six months of the date of entry.⁶

In 2019, the Venezuelan government extended the validity of its passports five years beyond the printed date of expiration. The United States recognizes the validity of the extension and accepts passports as valid for five years beyond the expiration date printed in the passports.⁷

IV. Issuance of Alternative Travel Documents

The United States will grant, to individuals who have been admitted as refugees and who cannot secure a current passport from their home country because of political reasons, travel documents that can be used for one year for leaving and reentering the country. Although the United States is not a party to the United Nations Convention on Refugees, it has taken steps to implement measures under article 28 of the convention to grant travel documents to refugees.⁸ Individuals who are granted the status of legal permanent resident in the United States are issued permanent resident cards (“green cards”), which are used, in addition to the holder’s original passport, to reenter the country. Individuals who have not yet been granted legal permanent resident status

⁴ 8 C.F.R. § 217.2(a) (2021).

⁵ Daniel C. Turack, *Selected Aspects of International And Municipal Law Concerning Passports*, 12 Wm. & Mary L. Rev. 805, 826-27 (1971).

⁶ NIV (Nonimmigrant Visa) Issuances, 9 F.A.M. 403.9-3(B)(2)(U), <https://perma.cc/B43L-VK8A>.

⁷ *The United States Supports Extension of Validity of Venezuelan Passports*, US Mission Chile (June 7, 2019), <https://perma.cc/V8HX-J5QV>.

⁸ Convention Relating to the Status of Refugees art. 28, July 28, 1951, 19 U.S.T. 6259, 189 U.N.T.S. 137, <https://perma.cc/9EJB-SFGX>.

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may apply for a refugee travel document, which functions like a green card for the purposes of reentering the United States from abroad.⁹

⁹ 8 C.F.R. 223.1 (2020).