

CHAPTER XXIX

ANNEX I TO THE IRO CONSTITUTION

DEFINITIONS

GENERAL PRINCIPLES

1. The following general principles constitute an integral part of the definitions as laid down in Parts I and II of this Annex.

(a) The main object of the Organization will be to bring about a rapid and positive solution of the problem of *bona fide* refugees and displaced persons, which shall be just and equitable to all concerned.

(b) The main task concerning displaced persons is to encourage and assist in every way possible their early return to their countries of origin, having regard to the principles laid down in paragraph (c) (ii) of the resolution adopted by the General Assembly of the United Nations on 12 February 1946 regarding the problem of refugees (Annex III).

(c) As laid down in the resolution adopted by the Economic and Social Council on 16 February 1946, no international assistance should be given to traitors, quislings and war criminals, and nothing should be done to prevent in any way their surrender and punishment.

(d) It should be the concern of the Organization to ensure that its assistance is not exploited in order to encourage subversive or hostile activities directed against the Government of any of the United Nations.

(e) It should be the concern of the Organization to ensure that its assistance is not exploited by persons in the case of whom it is clear that they are unwilling to return to their countries of origin because they prefer idleness to facing the hardships of helping in the reconstruction of their countries, or by persons who intend to settle in other countries for purely economic reasons, thus qualifying as emigrants.

(f) On the other hand it should equally be the concern of the Organization to ensure that no *bona fide* and deserving refugee or displaced person is deprived of such assistance as it may be in a position to offer.

(g) The Organization should endeavour to carry out its functions in such a way as to avoid disturbing friendly relations between nations. In the pursuit of this objective, the Organization should exercise special care in cases in which the re-establishment or re-settlement of refugees or displaced persons might be contemplated, either in countries contiguous to their respective countries of origin or in non-self-governing countries. The Organization should give due weight, among other factors, to any evidence of genuine apprehension and concern felt in regard to such plans, in the former case, by the country of origin of the persons involved, or, in the latter case, by the indigenous population of the non-self-governing country in question.

2. To ensure the impartial and equitable application of the above principles and of the terms of the definition which follows, some special system of semi-judicial machinery should be created, with appropriate constitution, procedure and terms of reference.

## PART I

### REFUGEES AND DISPLACED PERSONS WITHIN THE MEANING OF THE RESOLUTION ADOPTED BY THE ECONOMIC AND SOCIAL COUNCIL OF THE UNITED NATIONS ON 16 FEBRUARY 1946

#### *Section A. — Definition of Refugees*

1. Subject to the provisions of sections C and D and of Part II of this Annex, the term "refugee" applies to a person who has left, or who is outside of, his country of nationality or of former habitual residence, and who, whether or not he had retained his nationality, belongs to one of the following categories :

- (a) victims of the nazi or fascist regimes or of regimes which took part on their side in the second world war, or of the quisling or similar regimes which assisted them against the United Nations, whether enjoying international status as refugees or not;
- (b) Spanish Republicans and other victims of the Falangist regime in Spain, whether enjoying international status as refugees or not;
- (c) persons who were considered "refugees" before the outbreak of the second world war, for reasons of race, religion, nationality or political opinion.

2. Subject to the provisions of sections C and D and of Part II of this Annex regarding the exclusion of certain categories of persons, including war criminals, quislings and traitors, from the benefits of the Organization, the term "refugee" also applies to a person, other than a displaced person as defined in Section B of this Annex, who is outside of his country of nationality or former habitual residence, and who, as a result of events subsequent to the outbreak of the second world war, is unable or unwilling to avail himself of the protection of the Government of his country of nationality or former nationality.

3. Subject to the provisions of section D and of Part II of this Annex, the term "refugee" also applies to persons who, having resided in Germany or Austria, and being of Jewish origin or foreigners or stateless persons, were victims of nazi persecution and were detained in, or were obliged to flee from, and were subsequently returned to, one of those countries as a result of enemy action, or of war circumstances, and have not yet been firmly re-settled therein.

4. The term "refugee" also applies to unaccompanied children who are war orphans or whose parents have disappeared, and who are outside their countries of origin. Such children, 16 years of age or under, shall be given all possible priority assistance, including, normally, assistance in repatriation in the case of those whose nationality can be determined.

#### *Section B. — Definition of Displaced Persons*

The term "displaced person" applies to a person who, as a result of the actions of the authorities of the regimes mentioned in Part I, section A, paragraph 1 (a) of this Annex has been deported from, or has been obliged to leave his country of nationality or of former habitual residence, such as persons who were compelled to undertake forced labour or who were deported for racial, religious or political reasons. Displaced persons will only fall within the mandate of the Organization subject to the provisions of sections C and D of Part I and to the provisions of Part II of this Annex. If the reasons for their

displacement have ceased to exist, they should be repatriated as soon as possible in accordance with Article 2, paragraph 1 (a) of this Constitution, and subject to the provision of paragraph (c), sub-paragraphs (ii) and (iii) of the General Assembly resolution of 12 February 1946 regarding the problem of refugees (Annex III).

*Section C. — Conditions under which "Refugees" and "Displaced Persons" will become the Concern of the Organization*

1. In the case of all the above categories except those mentioned in section A, paragraphs 1 (b) and 3 of this Annex, persons will become the concern of the Organization in the sense of the resolution adopted by the Economic and Social Council on 16 February 1946 if they can be repatriated, and the help of the Organization is required in order to provide for their repatriation, or if they have definitely, in complete freedom and after receiving full knowledge of the facts, including adequate information from the Governments of their countries of nationality or former habitual residence, expressed valid objections to returning to those countries.

(a) The following shall be considered as valid objections :

- (i) Persecution, or fear, based on reasonable grounds of persecution because of race, religion, nationality or political opinions, provided these opinions are not in conflict with the principles of the United Nations, as laid down in the Preamble of the Charter of the United Nations;
- (ii) objections of a political nature judged by the Organization to be "valid", as contemplated in paragraph 8 (a)<sup>1</sup> of the report of the Third Committee of the General Assembly as adopted by the Assembly on 12 February 1946;
- (iii) in the case of persons falling within the category mentioned in section A, paragraphs 1 (a) and 1 (c) compelling family reasons arising out of previous persecution, or compelling reasons of infirmity or illness.

(b) The following shall normally be considered "adequate information" : information regarding conditions in the countries of nationality of the refugees and displaced persons concerned, communicated to them directly by representatives of the Governments of these countries, who shall be given every facility for visiting camps and assembly centres of refugees and displaced persons in order to place such information before them.

2. In the case of all refugees falling within the terms of section A, paragraph 1 (b) of this Annex, persons will become the concern of the Organization in the sense of the resolution adopted by the Economic and Social Council of the United Nations on 16 February 1946, so long as the Falangist regime in Spain continues. Should that regime be replaced by a democratic regime they will have to produce valid objections against returning to Spain corresponding to those indicated in paragraph 1 (a) of this section.

*Section D. — Circumstances in which Refugees and Displaced Persons will cease to be the Concern of the Organization*

Refugees or displaced persons will cease to be the concern of the Organization :

(a) when they have returned to the countries of their nationality in United Nations territory, unless their former habitual residence to which they wish to return is outside their country of nationality; or

<sup>1</sup> Paragraph 8 (a) : "In answering the representative of Belgium, the Chairman stated that it was implied that the international body would judge what were, or what were not, 'valid objections'; and that such objections clearly might be of a political nature."

- (b) when they have acquired a new nationality; or
- (c) when they have, in the determination of the Organization become otherwise firmly established; or
- (d) when they have unreasonably refused to accept the proposals of the Organization for their re-settlement or repatriation; or
- (e) when they are making no substantial effort towards earning their living when it is possible for them to do so, or when they are exploiting the assistance of the Organization.

## PART II

### PERSONS WHO WILL NOT BE THE CONCERN OF THE ORGANIZATION

1. War criminals, quislings and traitors.
2. Any other persons who can be shown :
  - (a) to have assisted the enemy in persecuting civil populations of countries, Members of the United Nations; or
  - (b) to have voluntarily assisted the enemy forces since the outbreak of the Second World War in their operations against the United Nations.<sup>1</sup>
3. Ordinary criminals who are extraditable by treaty.
4. Persons of German ethnic origin, whether German nationals or members of German minorities in other countries, who :
  - (a) have been or may be transferred to Germany from other countries;
  - (b) have been, during the Second World War, evacuated from Germany to other countries;
  - (c) have fled from, or into, Germany, or from their places of residence into countries other than Germany in order to avoid falling into the hands of Allied armies.
5. Persons who are in receipt of financial support and protection from their country of nationality, unless their country of nationality requests international assistance for them.
6. Persons who, since the end of hostilities in the Second World War :
  - (a) have participated in any organization having as one of its purposes the overthrow by armed force of the Government of their country of origin, being a Member of the United Nations; or the overthrow by armed force of the Government of any other Member of the United Nations, or have participated in any terrorist organization;
  - (b) have become leaders of movements hostile to the Government of their country of origin being a Member of the United Nations or sponsors of movements encouraging refugees not to return to their country of origin;
  - (c) at the time of application for assistance, are in the military or civil service of a foreign State.

<sup>1</sup> Mere continuance of normal and peaceful duties, not performed with the specific purpose of aiding the enemy against the Allies or against the civil population of territory in enemy occupation, shall not be considered to constitute "voluntary assistance". Nor shall acts of general humanity, such as care of wounded or dying, be so considered except in cases where help of this nature given to enemy nationals could equally well have been given to Allied nationals and was purposely withheld from them.