

THE LEGAL FRAMEWORK FOR THE RECOGNITION AND PROTECTION OF THE RIGHTS OF REFUGEES IN THE CONTEXT OF NANSEN PASSPORTS

Zoran Filipovski, Elif Hoca, page 35-44

ABSTRACT

The text explores the legal framework surrounding the recognition and protection of refugee rights, focusing specifically on the context of the Nansen Passport. This document, named after Fridtjof Nansen, was a document used by refugees and the stateless within the framework of the work of the League of Nations, as a travel document for the identification of this category of persons, giving them certain rights and protection.

The recognition and protection of the rights of refugees according to this document faced various challenges and limitations, including the refusal of some countries to accept its importance, which reflected negatively on freedom of movement and rights to healthcare and education for refugees. Additionally, there were restrictions regarding the time frame of validity of this travel document, leaving this category of persons without proper identification and vulnerable to further displacement or exploitation due to lack of legal status. Considering these challenges and limitations, our aim will be, through the analysis of the legal framework around the recognition and protection of the rights of refugees, to present the positive fundamental principles established from the Nansen passport. The authors in this paper will focus on the specific rights and protection that this document provides, and include social protection services, employment opportunities, human rights protection and mobility.

The authors of this paper, through an analysis of the content of the provisions of international legal legislation and agreements that were in force during the Nansen Passport, the Convention of the League of Nations relating to the Status of Refugees, will provide an overview of the role of states in the implementation of these provisions, as well as for the identification of gaps and inconsistencies in the legal framework, with the intention of understanding the degree of protection given to refugees. Also of no less importance will be the floor assessment the influence that the Nansen passport had in shaping other subsequent international agreements such as the Refugee Convention of 1951.

Keywords: Legal framework, refugee rights, international law, right to asylum, migration policy.

Prof. Dr. Zoran Filipovski

International Vision University, Gostivar, North Macedonia

e-mail: filipovski@vision.edu.mk;

Ph.D. candidate, Elif Hoca, LL.M

International Vision University, Gostivar, North Macedonia

e-mail: elif.hoca@vision.edu.mk;

**UDK: 314.151.3-054.73:
[351.755.61:341.121
314.151.3-054.73:341.24**

Declaration of interest:

The authors reported no conflict of interest related to this article.

INTRODUCTION

The Nansen passport was introduced in the 1920s by the League of Nations, at the request and idea of the Norwegian scientist Fridtjof Nansen, a person known for his contribution to polar research, neurology and international diplomacy, which is a fundamental document and a turning point in international refugee protection legal regimes. In an era characterized by great political turmoil as well as involuntary migration, this revolutionary travel document was devised to meet the demands of stateless persons displaced during the First World War, The Russian Revolution who needed an official means of identification that would allow them to cross borders. and have access to basic services. The Nansen passport has proven to be extremely useful when it comes to the security, mobility or integration of refugees. This road map has significantly contributed to the development of modern international legal norms for their protection and continues to shape modern policies and practices for the protection of this category of persons. This document is of fundamental importance in the continued development of the principles of today's refugee policies, such as the Temporary Protection Directive (TPD) which was initiated to deal with crises and migration of populations. as a result of the two world wars, illegal migration for the protection of the corpus of basic human freedoms and rights, migration from communist regimes, as well as military actions in the past in Hungary, Rwanda, Yugoslavia, and more recently in Syria and Ukraine.

1. Historical background of Nansen passports

These passports were introduced as a result of Nansen's humanitarian efforts in the early 1920s in response to the post-World War I refugee crisis to aid stateless refugees. Fridtjof Nansen, a Norwegian explorer and diplomat, proposed the idea of a travel document to facilitate the movement of refugees and stateless persons who were unable to return to their home countries. During World War II the number of displaced persons was somewhere around 9.5 million in 1920, including a large group of refugees from Russia. The abdication of the Tsar in Russia after the February Revolution and the coming to power of the Bolsheviks in October 1917 were the initial catalysts for persecution, expropriation and

repression against numerous social groups. A direct consequence of mass emigration was the civil war and the establishment of the Soviet Union, during which about two million people left the country and went into exile, being declared stateless by the Soviet Union. As a result of the civil war between the White Army and the Bolsheviks, a large wave of Russian refugees were evacuated from Odessa in 1919 to Western Europe (Vitiello, 2022).

As a solution to the independent status of the refugees, at that time Nansen, in his capacity as High Commissioner for Refugees of the League of Nations, on 05.07. 1922 Water in Geneva introduced a travel document through a resolution authorizing its issuance to stateless refugees or otherwise in need of international protection. Nansen passports were crucial in providing legal identity and travel documents for displaced persons, enabling them to cross borders and seek asylum (Huntford, 2002). Although with this document refugees and stateless persons could not exercise the right to permanent residence, they still had certain rights and consular protection with confirmation of their identity, or marital status, which in turn meant that it was the first solution for international recognition of the identity of a person. And the initiative marked a significant development in the history of official identification, emphasizing the importance of facilitating the safe passage of vulnerable categories of persons. Nansen passports exemplify the intersection of humanitarian concerns, international cooperation, and evolving identification and documentation practices in the early 20th century (Craig, 2009). The issuance of this type of travel document provided legal recognition and protection to stateless persons, enabling them to travel and facilitating their resettlement. The benefit of this solution represents a significant development in international humanitarian law, setting a precedent for protecting the rights of refugees and stateless persons.

The historical context of the Nansen Passport highlights the efforts of the international community to respond to the humanitarian needs of refugees and stateless persons after the First World War, laying the foundation for future international refugee protection frameworks.

This historical background contextualizes the significance and impact of Nansen passports in providing legal identity and protection to vulnerable populations, influencing the development of modern refugee protection mechanisms.

2. Legal basis for Nansen passports

The legal basis for Nansen passports can be traced back to the League of Nations Convention Relating to the Status of Refugees (Hathaway, 2010). The provision of Article 28 of the Convention on the Status of Refugees of 1951 defines the obligation of the contracting states to issue a travel document to a refugee who is legally stay in their territories for the purpose of exercising the right to free movement, i.e. travel outside their territories. The nature of the obligations of the states and of this travel document was defined in the final provisions of the Convention. Of essential importance are the obligations of the states, which derive from the convention, and refer to a) the right to return to the country (of asylum) that issues the travel document and b) the possibility of entering other countries that accept these documents as valid passports. It must be apostrophized the fact that together with the obligation of irreversible return and the general definition of protection, the travel document represents the essence of the rights of refugees and of the international refugee regime (Hieronymi, 2003).

Article 28 of the 1951 Convention Relating to the Status of Refugees served as the basis for the issuance of National Passports, recognizing the need to provide refugees and stateless persons with identification and travel documents to enable them to enjoy certain rights and protection.

Despite its noble intentions, the Nansen passport faced various challenges and limitations. The document was not universally recognized by all countries, resulting in travel restrictions and limited access to basic services for refugees. This lack of recognition and the limitations it imposed highlighted the necessity of re-evaluating and strengthening the legal framework around the recognition and protection of refugee rights.

This re-evaluation and strengthening of the legal framework should ensure that refugees are provided with a valid and secure form of identification and travel document that gives them the full range of rights and protections guaranteed by international law. The Nansen Passport was an important development in providing identification and travel documents for stateless refugees, but its effectiveness was hampered by a lack of universal recognition and restrictions on travel and access to services for refugees (Hieronymi, 2003).

3. Rights and protections provided by Nansen passports

The great wave of refugees in 1956, as a result of the destruction of the Hungarian revolution by Soviet troops, was numerically greater than the lifting of the Iron Curtain, designed primarily to prevent the emigration of the population from countries with a communist social system. For the international community, the reception of Hungarian refugees, in that period of time, was a successful methodology of action, primarily because of international solidarity from the governments and the population in European countries for 200,000 refugees, which had not been manifested until then. At the same time, they were provided with material assistance and legal protection in the countries of their final destination (Hieronymi, 2003). Nansen passports provided this category of refugees with basic rights and protection during the aftermath of the revolution by facilitating travel and enabling refugees to explore the world, find employment and social unification in host countries (Okeowo, 2018). Additionally, the Nansen Initiative, as highlighted in various papers, aimed to address cross-border displacement in the context of disasters, emphasizing the importance of policy options to prevent, prepare for and respond to such challenges, including those related to climate change. The Nansen initiative tried to build a consensus among states to strengthen the international protection of refugees in crisis situations (Kälin, 2012). The key rights and protections provided by this travel document included: 1) Formal recognition that a refugee existed whenever the named person had no identification at all. This recognition was necessary for their mobility, security and their legal identity. The passport allowed refugees to travel across international borders as they wished. This type of movement was important for applying for asylum, family reunification or obtaining better life opportunities abroad. Many host countries were able to provide work for refugees who held Nansen passports. enabling them personal and financial liquidity for their families, promoting their own economic stability and dignity. It means a certain level of protection from deportation to a country where they may face persecution, as well as confirmed that the refugees, once they left the countries where there were military actions, have the right to stay in the countries of their final destination, which guarantees them peace and security (Vitiello, 2022). 2) Refugees, by using a Nansen passport, could access education, health care and social assistance. Overall, the Nansen Passport was a pioneering initiative that laid the foundations for modern refugee protection

frameworks, and It showed the importance of international solidarity and practical solutions to support displaced individuals in rebuilding their lives.

The system of this type of travel document was the basis for interstate cooperation by the countries that recognized and adopted it, and at the same time and essential benefit in context care for refugees, because the duty of housing them is divided into manageable proportions. Nansens passport ot was the basis for acquiring the citizenship of refugees and had a special importance for this category of people who wanted citizenship status in new ones countries of their final destination.

4. A comparative analysis with modern refugee documentation

Different methods of modern refugee documentation are examined to show different techniques and technologies used in different situations. The use of digital paper and pen technology in refugee camps has been found to increase the speed of documentation and the quality of data through medical records (Kai, Kehe., Roland, Girgensohn., Walter, Swoboda., Dan, Bieler., Axel, Franke., Matthias, Helm., Martin, Kulla., Kerstin, Luepke., Thomas, Morwinsky., Markus, Blätzing., Katalyn, Rossmann., 2019). This allows for the rapid entry of large amounts of information that can be instantly stored allowing quick access to vital health details among refugees as well as aid workers.

On the contrary, it is argued that narrative documentation offers a way of dealing with trauma for people of refugee origin who have experienced torture or war, emphasizing concepts such as externalization and rewriting stories (Chanelle, 2015). When individuals tell their stories using this method, they feel empowered as it gives them the opportunity to express themselves and thus encourage healing. A person gains control over his/her life when he/she externalizes what has happened, thereby enabling him/her to make sense of things and move toward recovery and integration.

Moreover, analyzing historical global refugee policies through machine-made versus native-digital documents shows how much more can be known about these issues chronologically over time (Mariangela, 2016).

This means that certain things are only discovered when you use multiple search engines provided by different websites that deal exclusively with digital archives supplemented by different databases that hold huge amounts of offline material on the same topic, so that if one wants to use such knowledge base, he/she must be equipped accordingly, especially the terms they use in the search, including any synonyms associated with those words…

The importance of effective and culturally appropriate documentation methods for refugee aid and policy-making is brought to light by these different approaches. Stakeholders can provide better support for refugees, deal with trauma, and develop more beneficial policies that respect human rights and promote integration by appreciating and applying these different techniques. This shows how crucial documentation methods have become in supporting refugees, as well as in advocating for their protection and assistance on an ever-changing global scale.

On the other hand, a parallel can be drawn between the activation of the Temporary Protection Directive (TPD) in 2022 in response to the Ukrainian crisis and the issuance of Nansen passports to Russian refugees in the 1920s. Both initiatives represent significant milestones in the history of international refugee protection and demonstrate how coordinated, multilateral efforts can provide critical support to displaced populations in times of crisis.

The Nansen passport, introduced by the League of Nations after World War I, offered a lifeline to Russian refugees left stateless after the Russian Revolution. This travel document provided formal recognition of their status, allowing them to cross borders, seek employment and integrate into host countries. The passport facilitated interstate cooperation and eased the burden on the most affected states by promoting positive incentives for integration, such as access to job opportunities and social services.

Similarly, the Temporary Protection Directive was activated by the European Union in 2022 to deal with the mass displacement caused by the Russian invasion of Ukraine. TPD provides immediate protection to Ukrainian refugees, giving them rights of residence, access to the labor market, housing, medical care and education. This directive embodies the collective European response to a humanitarian crisis, ensuring that

Member States share the responsibility of accommodating refugees and coordinating their efforts to provide comprehensive support.

The issuance of Nansen passports and the activation of the TPD underscore the importance of international solidarity and cooperation in dealing with refugee crises. They highlight how providing formal recognition and mobility rights can help integrate displaced people into new communities and stabilize their lives.

Furthermore, the success of the TPD and the achievement of Decision 2022/382, which includes the non-application of the "returns" mechanism in Article 11, will depend on effective administrative cooperation between EU Member States and the coordination efforts of the European Commission. This decision aims to streamline the asylum process, reduce administrative burdens and ensure that protection is granted quickly and efficiently.

Both historical and contemporary responses to refugee crises demonstrate the ongoing need for robust legal frameworks and coordinated international efforts to protect the rights and dignity of displaced persons, ensuring they are able to rebuild their lives in safety and dignity.

CONCLUSION

The Nansen passport, introduced in the 1920s by the League of Nations, remains a significant milestone in the history of international refugee protection. This revolutionary travel document was designed to meet the needs of stateless persons displaced during the First World War and the Russian and Hungarian Revolutions, providing them with formal recognition and a means to cross borders, seek employment and access basic services. The Nansen passport not only facilitated interstate cooperation, but also promoted positive incentives for integration, such as access to job opportunities and social services, thereby reducing the burden on the most affected states.

The Nansen passport significantly contributed to the development of modern international legal norms for the protection of refugees, influencing subsequent treaties such as the 1951 Refugee Convention and shaping modern refugee policies such as the Temporary Protection

Directive (TPD). This historic document laid the foundations for the protection of the rights of refugees and stateless persons, emphasizing the importance of international solidarity and cooperation in dealing with refugee crises.

In addition, this study used a historical-legal approach, drawing on primary sources such as League of Nations documents and Nansen passport records, as well as secondary sources including scholarly analyzes and policy reviews. A comparative analysis was used to highlight the parallels between the Nansen passport and contemporary refugee documentation methods, demonstrating the evolution and adaptation of refugee protection frameworks over time.

The importance of effective and culturally appropriate documentation methods for aid and policy-making for refugees is emphasized by various approaches, with digital technologies that improve the speed of documentation and the quality of data in refugee camps being essential, as well as narrative approaches that aid in trauma recovery, these methods play a key role in supporting refugees and advocating for their protection globally.

Finally, the activation of the Temporary Protection Directive in 2022 in response to the Ukraine crisis mirrors the humanitarian efforts of the Nansen passport era, illustrating how coordinated, multilateral efforts can provide critical support to displaced populations in times of crisis. The Temporary Protection Directive provides immediate protection to Ukrainian refugees, ensuring residence rights, access to basic services and a collective European response to the ongoing humanitarian crisis.

Both historical and contemporary responses to refugee crises underscore the ongoing need for robust legal frameworks and coordinated international efforts to protect the rights and dignity of displaced persons. By analyzing the legacy of the Nansen Passport and its influence on contemporary refugee policies, it can be determined that it has made a major contribution to understanding the evolution of refugee protection and the continued adaptation of legal and humanitarian responses to global displacement challenges.

REFERENCES

- Chanel, B. (2015). My Story to Be Told': Explorations in Narrative Documentation with People of Refugee Origin. *International Journal of Narrative Therapy and Community Work*, 26.
- Craig, R. (2009). A Documentary Mode of Verification: The Emergence of the American Passport and the Archival Problematization of Identity. *Cultural Studies*, 329-354. doi: 10.1080/095023808020162
- Hathaway, JC (2010). *The rights of refugees under international law*. Cambridge: Cambridge University Press. doi: <https://doi.org/10.1017/CBO9780511614859>
- Hieronymi, O. (2003). Nansen passport: a tool for freedom of movement and protection. *Refugee Research Quarterly*, 36-47.
- Huntford, R. (2002). *Nansen: The Explorer as Hero*. London: Abacus.
- Kai, Kehe., Roland, Girgenson., Walter, Svoboda., Dunn, Biller., Axel, Franke., Mathias, Helm., Martin, Kula., Kerstin, Lupke., Thomas, Morwinski., Markus, Blatzinger., Catalin, Rossman. (2019). An analysis of the speed and sequence of digital documentation using digital paper and pen technology during the refugee crisis in Europe: A content analysis. *An analysis of the speed and sequence of digital documentation using digital paper and pen technology during the refugee crisis in Europe: A content analysis*. *Jmir health and wellness*, doi: 10.2196/13516
- Kälin, W. (2012). From the Nansen Principles to the Nansen Initiative. *Forced Migration Review* (41), 48-49.
- Mariangela, P. (2016). Contemporary Narratives of Asylum: Representing Refugees in the Twenty-First Century. *Journal of Postcolonial Writing*, 1-2. doi:10.1080/17449855.2016.1198095
- Okeovo, AO (2018). *The Nansen Initiative And The Development Of International Standards For The Protection Of Cross-Border Displaced Persons From Disasters*. University of British Columbia. Retrieved from <https://open.library.ubc.ca/media/stream/pdf/24/1.0365935/4>
- Vitiello, D. (2022). Nansen passport and temporary EU. *European Papers*, 7 (1), 15-30. Retrieved from https://www.europeanpapers.eu/en/system/files/pdf_version/EP_EF_2022_I_002_Daniela_Vitiello_00542.pdf