



Ministerial Conference on Statelessness in the ECOWAS Region

Meeting of Experts

23 and 24 February 2015

**CONCLUSION AND RECOMMENDATIONS
OF THE MINISTERIAL CONFERENCE ON
STATELESSNESS IN THE ECOWAS REGION**

CONCLUSIONS AND RECOMMENDATIONS

The first regional Ministerial Conference on statelessness in West Africa, which brought together delegates from the 15 ECOWAS countries, discussed key issues related to the theme of the Conference:

Preventing new cases of statelessness through law reform

Preventing statelessness through civil status registration and access to nationality documents;

Political commitments, partnership and information-sharing;

Identification of stateless persons;

Protection of stateless persons;

Solutions for stateless persons and risks of statelessness.

The main conclusions and recommendations are the following:

GENERAL CONCLUSIONS

1. The ECOWAS Member States are working towards regional solutions to the elimination of statelessness while keeping in mind that it is necessary first to strengthen their national administrative and legislative framework related to nationality;
2. It is essential to find solutions to statelessness which take into account the contemporary realities of West Africa and which are based on the continuity between traditional and modern systems, in particular by taking into account the role of the traditional powers and the social context of illiteracy;
3. We stress the importance of the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness, and the fact that they retain all their relevance in the 21st century. We also emphasize that two important instruments containing rules for the attribution of nationality, thus participating in the fight against statelessness, have been developed and adopted in the framework of the African Union, namely, the African Charter on Rights and Welfare of the Child and the Protocol on the Right of Women in Africa.

RECOMMENDATIONS

A. Preventing new cases of statelessness through law reforms

4. Reaffirming the relevancy of the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness, we urge ECOWAS Member States which have not acceded to the two international instruments to do so by the end of December 2015.
5. We call upon the National Human Rights Institutions to set up a committee to monitor the accession to the Conventions by those States which have committed themselves in this regard and the implementation of the Conventions by States that have already acceded.
6. We call upon States to revise their laws in light of the relevant international and regional human rights instruments related to nationality and statelessness, and to guarantee the right to a nationality and the principle of non-discrimination. Once national legislations are revised to conform to international law, it is essential that their application be done on a retroactive basis in order to resolve existing situations of statelessness.
7. Recognizing the necessity of harmonizing the nationality laws in the sub-region and ECOWAS's pivotal role in eradication and prevention of statelessness, we recommend that ECOWAS, in collaboration with UNHCR and the competent institutions of the African Union, adopt common standards that will guide the reform of nationality legislation of West African States. It is essential that these standards include the following:
 - Removal of discriminatory provisions in national legislation concerning the transmission of nationality to a spouse or a child, including based on sex, birth out of marriage, religion, ethnic affiliation and disability.
 - Every child has the right to a nationality, his/her nationality must be confirmed no later than when the age of majority is reached, including through provisions guaranteeing that any person born in the country and who stays there during his/her childhood is entitled to obtain the nationality of that country either automatically or by his/her own choice.
 - Prohibition of the renunciation of nationality if the applicant has no other nationality.
 - Other safeguards against statelessness under the Conventions on statelessness and international and regional human rights treaties.

8. We call upon ECOWAS Member States to support the development and adoption of a Protocol on the Right to Nationality to the African Charter on Human and Peoples' Rights.
9. We call upon ECOWAS Member States to set up a Committee at the ECOWAS level to develop common standards to guide the national legislative reforms and monitor the progress of implementation of the standards.
10. We invite ECOWAS to revise its 1982 Protocol on Citizenship so as to incorporate the right to a nationality; to define ECOWAS' role in ensuring access to citizenship; to guarantee others rights enshrined in Community law, including the right to non-discrimination, democratic participation and due process of law; and finally to provide a common understanding of the rights of nationals of West African states as ECOWAS citizens.
11. We are aware that certain borders inherited from colonization remain contentious. People living at the borders are affected by this situation and are often not clearly recognized as nationals of neighboring countries, and thus do not have access to the administrative services of the concerned States. It is recommended that a tripartite commission be established, consisting of representatives from ECOWAS and the concerned States, whose mission is to determine the identity and nationality of the affected populations. At the State level, it is recommended that an agency responsible for border management be established to handle both delineation-related issues and nationality issues of persons residing in contentious areas.
12. It is necessary that any territorial dispute brought before the International Court of Justice or any other judicial or arbitral body lead to a settlement on the nationality of the concerned persons. It is recommended that States systematically raise this issue before the judicial or arbitral body in charge of resolving territorial disputes, or, as an alternative, reach an agreement once the decision of this given instance is made. It is also recommended that ECOWAS ensure compliance with this rule.
13. In the event of State succession, it is important that States grant the population residing in the affected territories the right to choose nationality. If this right is not exercised within a set timeframe, we recommend that the concerned individuals are recognized automatically as holding the nationality of the country on whose territory they have established their residence if they would otherwise be stateless. We recommend that ECOWAS enshrine this rule in Community law.

B. Preventing statelessness through civil status registration and access to nationality documents

14. It is recommended that States adapt their national legislation to international standards with regards to birth registration and the fight against statelessness. It is important to overcome the current divisions between genders and to allow women to register the birth of their children (especially in the case of children born out of wedlock, single mothers or mothers who register their child alone). This can be achieved by clearly enshrining this rule in the law and by advocating to various actors, including civil service, civil society and traditional authorities, that they participate in strengthening the role and power of women in this regard.
15. It is recommended that States promote the decentralization of their civil status services, including through the creation of secondary civil status centers and by involving health centers in the birth registration process.
16. Traditional authorities have a major role to play in accompanying the State in its campaign to register births, including by opposing all ritual practices that might undermine this registration process. The role of traditional authorities should be defined and clearly framed by the law in order to ensure respect for the rule of law and to avoid arbitrariness.
17. It is recommended that States ensure that the birth registration process is free of charge, including civil status documents, especially birth declarations and national identity cards.
18. It is recommended that States implement awareness-raising and communication campaigns – both locally and at a larger scale – in order to involve all social groups (especially young children, youth, parents and rural populations) including through the use of media and community, NGOs and community-based organizations with the view to promote the registration of all births on the territory.
19. It is also recommended that States ensure a greater integration of their civil status services with related sectors (school, traditional and customary sectors).
20. It is recommended that the capacities of authorities be strengthened, including through specific trainings on statelessness.
21. It is recommended that States strengthen partnerships between relevant actors involved in advocacy for reform of civil status and birth registration.
22. Given the dysfunctionality of civil status systems in countries in conflict situations, which typically cause a drastic drop in birth registration rates, it is recommended that States implement appropriate measures to ensure an uninterrupted and regular birth registration process even in situations of

conflict, considering its importance to the protection of the rights of civilians and to the prevention of statelessness.

23. It is recommended that States allocate sufficient resources to their civil status systems in order to ensure their adequate functioning. It is also recommended that the international community provide technical and financial support in the strengthening of the civil status system especially in the context of the post-2015 development agenda.
24. It is recommended that States take advantage of available information and communication technologies, including through the computerization of civil status services, and create in every State a civil status database to simplify the process of birth declaration and the registration of vital events.
25. ECOWAS Member States should address nationality and statelessness issues through a systemic lens, with a view to put in place a coherent and unified system to manage identity documents giving access to nationality to all, both in theory and practice. Interventions related to the civil status, electoral registration, the management of national identity cards, border management and other related topics should be seen as part of the same system and should be coordinated in order to avoid duplication of efforts, the incompatibility of systems and contradictory approaches.
26. It is recommended that ECOWAS Member States simplify and harmonize their mechanisms allowing individuals who were not registered in time to obtain identity documents.

C. Political commitments, partnership and information sharing

27. We recommend that each State develop a national action plan for the eradication of statelessness on the basis of the Global Action Plan developed by UNHCR. As statelessness affects several fields, be it statistics, sociology, law, etc., and that its eradication requires both a political change and changes in the population's behavior, it is important to establish multi-stakeholder and multidisciplinary teams, bringing together various government departments including Justice, Human Rights and Interior, as well as civil society, the National Human Right Institutions, universities and the media. In drafting action plans, States must consult traditional leaders and women's groups. States should allocate funds for the implementation of national action plans, including support for civil society activities.
28. We urge each State to put a committee in place to follow up on the implementation of national action plans.
29. Each State should designate a focal point on statelessness to ECOWAS and UNHCR by note verbal. We urge civil society in each State to also designate a coordinator on statelessness.

30. We support the efforts led by the African Commission to adopt the Protocol on Nationality to the African Charter on Human and Peoples' Rights.
31. We urge States to coordinate activities in cross-border areas with one another to eradicate the risk of statelessness. In particular, we recommend to include the issue of resolving statelessness in any cross-border agreements between ECOWAS Member States, and to develop specific programmes aimed to reduce risks of statelessness in border areas with the support of civil society.
32. We call for a strengthening of the collaboration between ECOWAS and other regional organizations on issues relating to the right to nationality and the fight against statelessness, including the West African Economic and Monetary Union (UEMOA) and the Mano River Union (MRU).
33. We recommend that the different United Nations agencies and other international partners of ECOWAS Member States strengthen their collaboration on nationality and statelessness issues both at the regional level and between national offices, in particular by adopting common guidelines relating to statelessness and the right to nationality, in order to coordinate their actions and pool their resources.
34. We call upon States, with the support of civil society, the media, UNHCR and ECOWAS, to carry out information campaigns aimed at the general public on the importance of birth registration, the risk of statelessness and procedures to acquire a nationality. States should ensure that funds are allocated to support such information campaigns. We call upon the media to continue its important role in sharing information on statelessness, including through the regional media platform.
35. We call on civil society and lawyers in general to lodge cases relating to nationality and to use existing mechanisms within ECOWAS and the African Union including the Community Court of Justice and the African Commission on Human and Peoples' rights, to ensure compliance with international and regional conventions on statelessness and the right to a nationality.
36. We call on States to educate children in school on nationality and statelessness and also to include in the curricula of law faculties, law schools, magistrates' schools and other judicial trainings a component on the right to nationality and statelessness; and in particular to strengthen the capacity of lawyers to review national laws for conformity with international conventions on nationality and statelessness ratified by the State, and to ensure that judges are regularly trained on these instruments so that they can apply them in case of contradiction with domestic law. We also recommend the development of training programs on statelessness for law enforcement authorities.

37. We urge national judges' associations to bring up the issue of statelessness with the international union of judges.
38. We encourage civil society organizations to include a section relating to statelessness and the right to a nationality in reports presented at periodic reviews (universal periodic review, periodic review before the ACHPR).
39. We recommend that the United Nations and the African Union establish an international day on the fight against statelessness.
40. As statelessness can lead to instability, ECOWAS should integrate the fight against statelessness into its activities related to prevention and the resolution of conflict.
41. We urge ECOWAS to collect data on statelessness from each State, as well as set up measures to address statelessness.
42. We call on ECOWAS and UNHCR to follow up on the Conference Declaration and Recommendations and organize a conference every year to review the implementation of these commitments.
43. It is essential that States refer to best practices from other States. We invite UNHCR and ECOWAS to compile and regularly share these good practices.

D. Identification of stateless persons

44. We recommend that States carry out nation-wide sensitizations on statelessness to enhance the understanding of the concept and the issues related to being stateless.
45. We recommend that States annually provide statistics to ECOWAS on stateless persons and on the number of people who during the year were able to find a durable solution to their situation of statelessness. We also invite them to share procedural and legal information relating to the fight against statelessness. We further recommend that ECOWAS make information sharing compulsory under Community law.
46. It is necessary that States integrate questions aimed at identifying and surveying stateless persons and persons at risk of statelessness in their population census. We call on ECOWAS, assisted by African Union, UNICEF and UNHCR, to develop a model framework.
47. We additionally invite States to use other mechanisms to identify stateless persons or persons at risk of statelessness, including during the preparation of electoral lists and during border control operations. All information collected through these mechanisms should be referred to a central institution designated by law, whose role is to identify and determine the status of persons concerned.
48. It is essential that States, assisted by National Human Rights Institutions and research institutes, including universities, comprehensively document the

causes and risks of statelessness by conducting a study on the legal and administrative framework related to nationality.

E. Protection of stateless persons

49. We urge States to ratify and implement the 1954 Convention relating to the Status of Stateless Persons. In the spirit of the 1954 Convention, it is essential that States proceed with nationality determination (by virtue of birth, alliance or ancestry) using bilateral or multilateral cooperation mechanisms, as applicable. In cases where nationality cannot be determined, we urge States to initiate a statelessness determination procedure to establish the status of the concerned persons and enable them to enjoy the rights that accrue to that status.
50. We recommend that States set up support services (including online services) whose role would be, inter alia, to identify stateless persons and provide them with free-of-charge legal assistance as well as access to justice and any other type of assistance as appropriate, in order to clarify and regularize their status.
51. We call on ECOWAS to adopt a regional instrument to, inter alia, create a status of stateless person which grants the same rights and obligations as those attributed to nationals and to guarantee the human rights of stateless persons under Community law. ECOWAS may wish to suggest the adoption of a continental instrument on statelessness, building on the example of the OAU 1969 Convention governing the specific aspects of refugees' problems in Africa. We call in particular on ECOWAS to guarantee the freedom of movement of stateless persons.
52. We call on ECOWAS, with the assistance of UNHCR, to strengthen capacity of member states in the development of procedures and national mechanisms, including national focal institutions to oversee stateless matters and facilitate the development of a legal framework for the implementation of the 1954 Convention at State level.

F. Solutions for stateless persons and risks of statelessness

53. We encourage States to identify the obstacles pertaining to confirmation and acquisition of nationality and conduct a review of their nationality legislation and procedures and, as necessary, adopt laws and policies concerning confirmation and/or acquisition of nationality. Rules for conferral of nationality should be changed so that all stateless people resident in the territory are considered nationals provided that they were born on the territory or have resided there before a particular date, or have parents or grandparents who meet these criteria.
54. In the search for solutions, it is essential to take into account the situation of street children, who are mostly living in the street because there is no

identification and protection mechanism in place. They rarely have documentary evidence of their identity, and those who are abandoned or have ruptured their links with their families face serious complications for reconstituting their identity and thus accessing a nationality. States should consider as foundlings any children, as defined in article 6 of the African Charter on the Rights and Welfare of the Child, found on their territories, whose identity cannot be reasonably established and whose family cannot be traced, and guarantee in their laws that these children are granted their nationality.

55. In the search for solutions, it is also essential to take into account the situation of populations with a pastoral and transhumant lifestyle. They often have ties with several countries but lack documentary evidence thereof. Their particular situation requires a revision of the protocol on pastoralism for ECOWAS and African Union in order to recognize their ties to one or more specific countries, so as to guarantee their access to a nationality and facilitate their access to identity documentation. In view of the risks of statelessness in border and trans-border areas, we ask ECOWAS Member States to pay particular attention to the specific situation of these zones and the populations who live there. It is necessary to guarantee their non-discriminatory access to civil registration services and documentation.
56. We are aware that West Africa is a region prone to intensive migration, mainly from other countries of the region. In the search for solutions, it is essential to take into account the situation of offspring of migrants who, because of conflicts of laws, are unable to acquire the nationality of their country of birth nor that of their parents. As such, we recommend that States provide in their legislation for acquisition of nationality to unregistered or undocumented children, if at the time of the child's birth he/she is not granted nationality by any other State in accordance with its laws.
57. In situations of protracted migration, it is also important to consider the situation of migrants who no longer have or have never had evidence of their nationality and as such find themselves without an established identity/nationality. We encourage ECOWAS to implement mechanisms to seek the identity and establish the nationality of the concerned persons. We call upon all States to ensure consular representation for the citizens of ECOWAS and to work actively with IOM and ECOWAS on the confirmation of the identity and nationality of stranded migrants. We also call upon States of residence to facilitate acquisition of nationality to those with relevant links to their territories.
58. Refugees are particularly vulnerable to the risk of losing proof of their identity. This risk increases when their exile is protracted and when the administration of their country of origin is severely dysfunctional, particularly

when civil registries have been destroyed. Noting that all States in the region are parties to the 1951 Convention relating to the Status of Refugees, we recommend that, by virtue of the relative effect of treaties, both the status of refugee and the determination of nationality that this status implies be recognized in all countries. In this respect, we recommend that determination of nationality be conducted at the time of arrival of refugees and is treated as a presumption that can be challenged by the State of origin only on the basis of hard evidence, which it would have to provide.

59. It is crucial that States implement articles 34 of the 1951 Convention relating to the Status of Refugees and article 32 of the 1954 Convention on the Status of Stateless persons in order to facilitate the naturalization of refugees and stateless persons. We recommend that States ensure that naturalization procedures conform to the rule of law, are fair and equitable, and, in particular, set out reasonable conditions and procedures that are clearly communicated and accessible to all.
60. We encourage States to provide or facilitate legal aid and other forms of assistance to any person who attempts to obtain documents establishing his/her nationality, especially during periods when new procedures or legislative reforms are introduced. In this respect, particular attention should be paid to the specific needs of women, especially where it pertains to access to procedures.
61. We encourage States to establish bilateral joint commissions in order to share information and confirm the identity and nationality of individuals and populations.
62. We recommend that ECOWAS create a mechanism, such as a regional mediator/ombudsman, to serve as an intermediary on issues relating to nationality between the citizens of ECOWAS and ECOWAS Commission.