



**UNHCR**

United Nations High Commissioner for Refugees  
Haut Commissariat des Nations Unies pour les réfugiés

**60**  
YEARS - ANS

**Implementation of the Comprehensive Strategy for the Rwandan Refugee Situation,  
including UNHCR's recommendations on the  
applicability of the "ceased circumstances" cessation clauses**

**A. Introduction**

1. In October 2009, UNHCR announced at the 60th Executive Committee of the High Commissioner's Programme (EXCOM) a comprehensive strategy to bring to a proper closure the Rwandan refugee situation. The strategy comprised four components: (i) enhancing promotion of voluntary repatriation and reintegration of Rwandan refugees in Rwanda; (ii) pursuing opportunities for local integration or alternative legal status in countries of asylum; (iii) continuing to meet the needs of those individuals unable to return to their country of origin for protection-related reasons; and, (iv) elaborating a common schedule leading to the cessation of refugee status, foreseen to commence as of 31 December 2011.
2. Since 2009, UNHCR has engaged relevant stakeholders, including authorities in countries of asylum and the country of origin, and affected refugees themselves, to achieve solutions for as many refugees as possible. The Office recently undertook a review of progress achieved in the implementation of the comprehensive strategy, which included consultations with delegations of countries of asylum and the country of origin on the margins of the 62nd Session of the Executive Committee in October 2011. This review demonstrated that, while much has been achieved in the past two years in bringing the comprehensive strategy to fruition, important challenges remain. With regard to voluntary repatriation, many refugees remain reluctant to return to Rwanda due to strong links to their countries of asylum after many years in exile, as well as apprehension about conditions in their home country. At the same time, concrete offers to long-staying refugees of local integration or alternative legal status by countries of asylum have been limited, particularly in the absence of clear progress on voluntary repatriation. UNHCR considers it critical that States, UNHCR and other partners address these challenges concertedly so as to secure meaningful solutions, in a timely manner, for as many Rwandan refugees as possible.
3. In relation to the cessation of refugee status, it was earlier envisaged that cessation would take effect on 31 December 2011. Taking into consideration, however, the current status of implementation of the comprehensive strategy, as well as the requests of countries of asylum for greater flexibility in the implementation of cessation at the national level, UNHCR has tempered its advice accordingly.
4. Taking the above into account, UNHCR's recommendation to States, as regarding cessation, is that the process now commence to progressively implement throughout 2012 all aspects of cessation of refugee status (including exemption procedures) for Rwandan refugees who had fled Rwanda as at and including 1998, so as to enable their status definitively to cease, latest by 30 June 2013.

**B. Overview of the Rwandan Refugee Situation**

5. As of September 2011, there were approximately 100,000 Rwandan refugees and others in refugee-like situations in some forty countries of asylum, mainly in Africa. These include some 65,500 Rwandan refugees in Central Africa and the Great Lakes region; roughly 10,000 in Southern Africa; close to 14,000 in East and Horn of Africa, and just over 1,000 in West African nations. The largest number of Rwandan refugees, close to

56,000 according to Government figures, resides in the Democratic Republic of the Congo. There are also some 9,320 Rwandan asylum-seekers in other countries in Africa, mainly in Uganda, Malawi, Kenya and South Africa.

6. The vast majority of Rwandan refugees fled their country of origin as a result of the 1994 genocide and its aftermath, including armed clashes in north-western Rwanda that occurred in 1997 and 1998. Many others, however, left Rwanda before 1994, fleeing inter-ethnic violence that occurred following the death of the Rwandan monarch in 1959 and that continued episodically through to 1994.

### **C. Status of the Comprehensive Strategy**

7. On 9 December 2011, taking advantage of the presence of high level, relevant government officials at the Ministerial event held in Geneva on 7-8 December 2011,<sup>1</sup> UNHCR organized a side meeting with government counterparts to review the state of progress, challenges and next steps in the realization of the Comprehensive Strategy. Fifty-three government officials from 21 African countries hosting Rwandan refugees participated, as well as thirty (30) UNHCR staff, including the High Commissioner for Refugees and the Assistant High Commissioner (Protection).
8. While acknowledging the complexity of the Rwandan refugee situation, participating government delegations validated the comprehensive strategy as a whole. They furthermore confirmed that repatriation and local integration remain the core solutions for the Rwandan refugee population under discussion. Delegations emphasized that closure of the refugee situation for those affected by cessation must be accomplished in a humane and just manner, taking into account the apprehension that many refugees feel about returning to their country of origin after a long absence. Many agreed on the need to accommodate, to the extent possible, the strong ties that refugees have established in their countries of asylum, as well as on the need to involve refugees throughout the different stages leading to cessation of status.
9. The status of each of the main components of the comprehensive strategy for Rwandan refugees, and UNHCR's recommendations going forward, are reviewed below.

#### **(i) Intensify efforts to promote voluntary repatriation**

10. UNHCR has been actively promoting the voluntary repatriation of Rwandan refugees since October 2002. Ten tripartite agreements have been signed by countries of asylum, UNHCR and the country of origin over the past nine years. All parties have been actively involved in activities promoting voluntary repatriation, including the production of information leaflets, "go-and-see"/"come-and-tell" visits and information meetings with refugee communities.
11. The greatest part of the Rwandan refugee population, including those who fled events before the 1994 genocide and the genocide itself, has since returned to Rwanda. From August 1994 to October 2002, some 3.1 million Rwandan refugees returned home. Between October 2002, when UNHCR started promoting returns, and the end of November 2011, 150,519 refugees repatriated with the assistance of the Office, including 6,855 assisted returns in 2011.

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<sup>1</sup> Intergovernmental event at the ministerial level of Member States of the United Nations on the occasion of the 60<sup>th</sup> anniversary of the 1951 Convention relating to the Status of Refugees and the 50<sup>th</sup> anniversary of the 1961 Convention on the Reduction of Statelessness (7-8 December 2011).

12. UNHCR monitoring of refugee returns has indicated that Rwandan refugees who have returned to their country of origin with UNHCR assistance have re-integrated reasonably well into their home communities. They are, however, in some instances faced with socio-economic problems impeding meaningful access to basic services such as health and education, similar to those faced by other Rwandans.
13. During the 9 December meeting with States, there was a strong affirmation of voluntary repatriation as a core component of the comprehensive strategy. Particular concerns were expressed, however, about the extent to which information on conditions in Rwanda was accurately being conveyed to refugees. UNHCR was called on to increase its promotional activities for return, drawing on information gathered through its returnee monitoring.
14. In view of the above, UNHCR recommends that the following next steps be taken:
  - (a) UNHCR, countries of asylum, the country of origin and other partners to continue to work actively and decisively in promoting voluntary repatriation and facilitating the return home of Rwandan refugees who make the decision to do so.
  - (b) In promoting voluntary return, relevant actors to increase dialogue with Rwandan refugee communities, combat misinformation and intimidation, establish confidence-building measures, and organize “go-and-see”/ “come-and-tell” visits.
  - (c) The Government of Rwanda, with the support of the international community, to maintain and enhance its commitment to supporting the sustainable voluntary return and re-integration of refugees, as well as to seek to address, to the extent possible, concerns about return expressed by refugees.
  - (d) UNHCR to increase its returnee monitoring capacity in the country of origin and to more systematically relay relevant information on return conditions to refugees in countries of asylum.
  - (e) Rwandan refugees in sub-Saharan African countries wishing to repatriate voluntarily with UNHCR assistance to receive assistance for transportation and a cash grant to help them to reintegrate upon return, subject to the availability of funding.
- (ii) **Pursue opportunities for local integration or alternative legal status in countries of asylum**
15. Many Rwandan refugees are long-term residents in their countries of asylum, one-third of them having been born in exile. Many refugees have established family ties through marriage to nationals of the country of asylum or third-country nationals residing there. Many are contributing to the local economy. After decades of exile, the links of these individuals with their country of origin have weakened considerably. In such cases, UNHCR considers local integration or an alternative legal status to be the most appropriate durable solution.
16. Since the Comprehensive Strategy was adopted in October 2009, some progress has been made in securing local integration for Rwandan refugees in countries of asylum. Citizenship, permanent or long stay legal status has been granted to a limited number of refugees, including refugee spouses and children of host country nationals, refugees with professional skills, and other long-term residents. Work permits and business licenses

have likewise been issued to Rwandan refugees residing in urban areas, recognizing the business opportunities that these individuals bring to these areas.

17. Despite these positive examples of progress, challenges in securing greater opportunities for local integration remain. Broadly speaking, governments in countries of asylum have yet to step forward with concrete offers of local integration for Rwandan refugees generally, or to define the categories of refugees who may be eligible for this solution, many being reluctant to commit to local integration options absent clear progress with regard to voluntary repatriation. While some Rwandan refugees have obtained citizenship in their country of asylum, the numbers remain low. Even where opportunities for naturalization or an alternative legal status exist, many refugees remain unaware of these options or choose not to apply due to complex, lengthy and/or costly administrative procedures.
18. During the consultative meeting with States on 9 December, State delegations broadly agreed on the need to accommodate, to the extent possible, the strong ties that many refugees had established in their countries of asylum. They also noted, however, the significant challenges that they, as host States, confront in this regard, including scarcity of land, lack of resources to ensure adequate integration, and legal restrictions on when and how alternative legal status may be granted. The need for official identity documents from the country of origin to facilitate the issuance of residence permits or visas was also noted. These challenges notwithstanding, some countries indicated their preparedness to offer citizenship or an alternative legal status to certain long-staying refugees, with a corresponding request made for international assistance in meeting the associated costs.
19. In view of the above, UNHCR recommends that the following next steps be taken:
  - (a) Countries hosting Rwandan refugees to favorably consider the granting of naturalization or an alternative legal status to refugees with strong family, social and economic ties to their countries, consistent with Executive Committee Conclusion No. 69 (XLIII) (1992) on "Cessation of Status". UNHCR to take steps to confirm or secure with the concerned countries appropriate arrangements that will enable refugees seeking to remain to do so.
  - (b) States, with UNHCR support as necessary, to apprise refugees who wish to remain, reside or integrate in countries of asylum of the legal entitlements or options that may be available to them under national laws.
  - (c) The Government of Rwanda to provide national passports, consular cards or relevant documentation to Rwandan refugees in countries of asylum so as to facilitate the issuance of residence and work permits by those countries in a timely manner.
  - (d) Recognizing the costs associated with local integration, UNHCR to support countries of asylum with local integration efforts to the extent funding is available. UNHCR and countries of asylum to advocate with donor countries to make available increased funds for this critical element of the comprehensive strategy.
- (iii) **Elaborate a common schedule leading to the definitive cessation of refugee status, while continuing to meet the needs of those unable to return to their country of origin for protection-related reasons**
20. The application of the "ceased circumstances" cessation clauses is an end point to the comprehensive strategy. While this element of the comprehensive strategy was broadly

endorsed by States during the consultative meeting of 9 December, a number of delegations requested flexibility in the implementation of the cessation clauses at the national level. As noted above, taking these views into account, as well as the need to further consolidate solutions for refugees in countries of asylum, UNHCR's recommends that the process now commence to progressively implement throughout 2012 all aspects of cessation of refugee status (including exemption procedures) for Rwandan refugees who had fled Rwanda as at and including 1998, so as to enable their status definitively to cease, latest by 30 June 2013.

21. The paragraphs below elaborate in greater detail UNHCR's recommendation on the applicability of the ceased circumstances cessation clauses to the current Rwandan refugee population.

#### **D. Applicability of Ceased Circumstances Cessation Clauses to Refugees from Rwanda**

##### **Rationale and scope of cessation**

###### **(i) General**

22. Both the 1951 Refugee Convention and the OAU Refugee Convention provide for the cessation of refugee status when positive changes have taken place in the country of nationality (or country of habitual residence) such that the causes of refugee flight no longer exist. The changes that have occurred must be of a fundamental and durable character.
23. Cessation is not invoked in an open-ended manner, with the intention of declaring that a country no longer produces refugees. Rather, application of the cessation clauses is generally fixed to specific events, against which "fundamental and durable changes" can be measured. A declaration of cessation should not serve as an automatic bar to refugee claims, either at the time of the declaration or subsequent to it, and asylum-seekers from that country should continue to have their claims fully and fairly considered.

###### **(ii) Rwandan displacement before 1999**

24. The 1994 Rwandan genocide was one of the most devastating human rights atrocities in history, resulting in the deaths of an estimated 800,000 people, over two million refugees and some 1.5 million internally displaced persons. Those who fled Rwanda found refuge primarily in the neighboring countries of the Democratic Republic of Congo (DRC), Tanzania and Uganda, as well as countries further afield in Africa. Many also traveled to countries in Europe, North America and elsewhere.
25. The 1994 genocide followed, and could be described as the culmination of, periods of inter-ethnic violence and conflict in Rwanda over the previous decades, each of which resulted in separate refugee movements. Between 1959 and 1963, following the death of the Rwandan monarch, some 150,000 Rwandans fled the country to escape inter-ethnic violence. Rwandans again fled their country in large numbers after the 1973 coup d'état led by General Juvenal Habyarimana. By the late 1980s, there were an estimated 600,000 Rwandan refugees in the region.
26. After the 1994 genocide, Rwanda saw further large-scale internal and external displacement from and within the north-west of the country in 1997 and 1998 due to an insurgency reportedly led by former soldiers of the Rwandan army and Interahamwe militia elements who had returned from the DRC. By the end of these armed clashes,

nearly 650,000 Rwandans had been displaced or forcibly relocated, with thousands having sought protection abroad as refugees.

27. Unlike refugee flows from Rwanda after 1998, the above-mentioned periods share the character of group or large-scale forced population movements as a result of armed conflict, events seriously disturbing public order and/or the presence of a consistent pattern of mass violations of human rights including genocide. The vast majority of refugees fleeing these events were granted refugee status under Article 1.2 of the 1969 OAU Convention on a prima facie basis.

**(ii) Country conditions since 1999**

28. Since the events described above, Rwanda has undergone rapid, fundamental and crucially positive changes. The country has changed significantly since the 1994 genocide, and today enjoys an essential level of peace and security. Significant efforts have been undertaken to promote reconciliation. Important steps towards democracy have been taken, including the adoption of a new constitution and the holding of Parliamentary and Presidential elections. Rwanda has acceded to several human rights treaties and established a National Human Rights Commission for the promotion and protection of human rights. The death penalty has been abolished. It has been announced that the proceedings of the *Gacaca* courts, which have been a source of apprehension for many refugees, have been largely concluded. While various concerns continue to be raised by different actors, such as restricted space for political opposition in the country, the above positive developments are noteworthy.
29. Reflecting these positive developments, and as noted earlier, the greatest part of the Rwandan refugee population had returned home as of the end of 1998. From August 1994 to October 2002, some 3.1 million Rwandan refugees returned to their home country. Between October 2002, when UNHCR started promoting returns, and the end of November 2011, 150,519 refugees repatriated with the assistance of the Office, including 6,855 assisted returns in 2011.

**(iii) Scope of cessation**

30. On the basis of these fundamental developments, the scale and nature of refugee displacements that have occurred, consultations with the principal countries of asylum and the country of origin, and an in-depth analysis of the situation by the Office, UNHCR considers that the refugee status of Rwandan refugees who fled the country between 1959 and 31 December 1998 as a result of the different episodes of inter-ethnic violence between 1959 and 1994, the genocide of 1994 and its aftermath, and the renewed armed conflict that erupted in north-western Rwanda from 1997 to 1998, can now be brought to an end pursuant to the “ceased circumstances” cessation clauses contained in paragraphs 6(A)(e) and (f) of the UNHCR Statute, Article 1C(5) and (6) of the 1951 Convention relating to the Status of Refugees (the “1951 Convention”), and Article I(4)(e) of the 1969 Organization of African Unity Refugee Convention (the “1969 OAU Convention”).

**Legal and practical consequences of cessation**

**(i) Declarations of cessation and the entry into force of cessation**

31. Taking into account the need for flexibility in the implementation of cessation at the national level, and the need to further consolidate available solutions, UNHCR recommends that the process now commence to progressively implement throughout 2012 all aspects of cessation of refugee status (including exemption procedures) for Rwandan refugees who had fled Rwanda as at and including 1998, so as to enable their

status definitively to cease, latest by 30 June 2013. Within this timeframe, States will need to determine the timeline for declaring cessation and its subsequent entry into force. UNHCR will provide technical advice to States in this regard, including in relation to the implementation of the exemption procedures (see paragraphs 33-36 below).<sup>2</sup> The requirement for refugees to be notified of the decision on cessation within a reasonable period will need to be factored into State planning.

32. The date for the coming into effect of the cessation of refugee status may arrive before arrangements for voluntary return and/or the provision of alternative legal status will have been completed. In such situations, a suspension of cessation could be considered such that persons concerned would continue to benefit from protection as refugees, including protection from *refoulement*, until the pertinent arrangements are fully implemented. Suspension of a cessation declaration would amount to a temporary stay of the decision to cease status, and, consistent with general administrative law principles, should be time-limited. Suspension of the cessation declaration is not to be confused with the suspensive effect of an application for exemption, explained further below.

**(ii) Exemption procedures**

33. Based on the earlier-cited provisions of the 1951 Convention, and in keeping with established principles of international refugee law, there are two categories of Rwandan refugees falling within the scope of cessation for whom cessation does not apply: (a) refugees who continue to have a well-founded fear of persecution; and (b) persons who have compelling reasons arising out of previous persecution for refusing to avail themselves of the protection of the country of origin.<sup>3</sup>
34. UNHCR will work with governments in the countries of asylum and its partners to ensure that the necessary procedures are established to properly receive and decide on any such exemption applications that are lodged. In particular, an information campaign on cessation will need to be carried out.
35. In cases where UNHCR, government counterparts or partners have knowledge of specific individuals who may continue to need international protection, they may affirmatively approach and counsel such persons regarding their right to seek exemption from application of the cessation clauses.
36. A request for exemption has a suspensive effect on the application of the cessation decision. Accordingly, Rwandan refugees who have lodged such applications, but whose claims have not been decided by the effective date of cessation will retain their refugee status pending the outcome of the exemption process, including exhaustion of appeals.

**(iii) Post-1998 asylum seekers and refugees**

37. The application of the cessation clauses as elaborated in this document does not apply to Rwandan refugees who fled Rwanda after 31 December 1998 or to Rwandans with pending asylum claims, regardless of when lodged. Rwandan asylum-seekers should continue to have their claims adjudicated and determined in a fair and just manner.

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<sup>2</sup> See, UNHCR, *Guidelines on Exemption Procedures in respect of Cessation Declarations*, December 2011, available at: <http://www.unhcr.org/refworld/pdfid/4eef5c3a2.pdf>.

<sup>3</sup> Article 1C(5) and (6), 1951 Convention.

**(iv) Modalities for the implementation of cessation**

38. For countries of asylum that are party to the 1951 Convention and/or the 1969 OAU Convention, national authorities have the ultimate responsibility to establish the modalities for the application of the “ceased circumstances” cessation clauses. Relevant domestic legislation will also be applicable. States should therefore undertake appropriate preparations for the implementation of the cessation of refugee status for Rwandan refugees in a transparent manner and as soon as possible. Bearing in mind the supervisory role of UNHCR under paragraph 8 of its Statute in conjunction with Articles 35 and 36 of the 1951 Refugee Convention, Article II of the 1967 Protocol and Article VIII of the 1969 OAU Refugee Convention, UNHCR will provide advice and technical or such other support and resources as may be required by States for the implementation of the cessation clauses.

UNHCR  
30 December 2011