



## **NATIONAL COMMISSION FOR REFUGEES (ESTABLISHMENT, ETC.) ACT**

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## **NATIONAL COMMISSION FOR REFUGEES (ESTABLISHMENT ETC.) ACT**

An Act to establish the National Commission for Refugees for safeguarding the interest and treatment of persons who are seeking to become refugees in Nigeria or persons seeking political asylum in Nigeria and other matters incidental thereto.

[29th December, 1989]

[Commencement.]

## PART I

### *Prohibition of expulsion of refugees, etc.*

#### **1. Prohibition of expulsion or return of refugees**

- (1) As from the commencement of this Act and notwithstanding any other law or enactment, no person who is a refugee within the meaning of this Act shall be refused entry into Nigeria, expelled, extradited or returned in any manner whatsoever, to the frontiers of any territory where-
  - (a) his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular group or political opinion; or
  - (b) his life, physical integrity or liberty could be threatened on account of external aggression, occupation, foreign domination or events seriously disrupting public order in any part or the whole of that territory.
- (2) The provisions of subsection (1) of this section, shall not apply to a refugee who-
  - (a) is a danger to the security of Nigeria; or
  - (b) is convicted by a court or tribunal for committing any serious crime as stipulated in the conventions contained in First to Third Schedules to this Act.
- (3) No person, claiming to be a refugee within the meaning of this Act who has illegally entered into or is illegally present in Nigeria, shall be expelled, extradited or returned merely by reason of his illegal entry or presence in Nigeria or any part of Nigeria pending the determination of his application for a refugee status.
- (4) A person who has lawfully entered into or is lawfully present in Nigeria and who wishes to remain in Nigeria on the grounds that he is a

refugee within the meaning of this Act, shall not be compelled to leave Nigeria unless he has found another country of asylum.

## **2. Office to be responsible for matters relating to refugees**

The office of the Secretary to the Federal Government shall, subject to the provisions of this Act, be charged with responsibility for matters relating to refugees or refugee status.

## PART II

### *Establishment and functions of the National Commission for Refugees*

## **3. Establishment and composition of the National Commission for Refugees**

- (1) There is hereby established, under the supervision of the Secretary to the Federal Government, a commission to be called the National Commission for Refugees (in this Act referred to as "the Commission") which shall consist of-
- (a) a chairman to be appointed by the President;
  - (b) a representative of the Secretary to the Federal Government, as vice-chairman;
  - (c) the Federal Commissioner for Refugees or his representative;
  - (d) the Permanent Secretary of the Ministry of Foreign Affairs or his representative;
  - (e) the Permanent Secretary of the Ministry of Internal Affairs or his representative; and
  - (f) the representative of the United Nations High Commissioner for Refugees in Nigeria, as observer to be invited by the Commission, from time to time, to the meetings of the Commission when matters to be considered by the Commission have international import or are of global importance to refugees.
- (2) The Commission shall hold its meetings as and when the chairman is of the opinion that the Commission should meet and shall keep and furnish the Secretary to the Federal Government with records of its meetings.

- (3) A member of the staff of the secretariat of the Federal Commissioner for Refugees shall perform secretarial duties during the meetings of the Commission.

#### **4. Functions of the Commission, etc.**

- (1) The functions of the Commission shall be to-
  - (a) lay down general guidelines and overall policy on general issues relating to refugees and persons seeking asylum in Nigeria;
  - (b) advise the Federal Government on policy matters in relation to refugees in Nigeria;
  - (c) consider such matters as the Secretary to the Federal Government may, from time to time, refer to it and make recommendations thereon to the Secretary to the Federal Government.
- (2) The quorum of the Commission shall be three.
- (3) The Commission may appoint such committees as it may deem necessary to deal with specific aspects of refugee problems in Nigeria.
- (4) When there is a large scale influx of persons claiming to fall within the meaning of refugees under this Act, the Commission shall meet on an emergency basis and advise the Federal Government on the appropriate measures to be taken, including the provision of adequate facilities and services, necessary for the care of the particular group of persons affected by the influx.

### **PART III**

#### *The Federal Commissioner for Refugees, etc.*

#### **5. Appointment of the Federal Commissioner for Refugees**

- (1) There shall be appointed by the President, a Federal Commissioner for Refugees (in this Act referred to as "the Federal Commissioner") who shall-
  - (a) grant refugee status to applicants on the recommendations of the Eligibility Committee constituted pursuant to section 6 (1) of this Act;

- (b) preside over the committees on refugees, as may be appointed from time to time;
  - (c) ensure the provision of adequate facilities and services for the reception and care of refugees in Nigeria;
  - (d) take such steps as he considers necessary to ensure compliance with the provisions of section I (1) of this Act;
  - (e) exercise such other powers and perform such other duties relating to refugees as may be assigned to him, from time to time, by the Commission or the Secretary to the Federal Government.
- (2) The Federal Commissioner shall perform the functions conferred upon him by this section under the supervision of the Secretary to the Federal Government, including compliance with any general instructions that may be given to him by the Secretary to the Federal Government.

#### **Eligibility Committee**

- (1) There is hereby established, under the supervision of the Federal Commissioner, a committee to be known as the Eligibility Committee for Refugees (in this Act referred to as "the Eligibility Committee"), which shall consist of-
- (a) the Permanent Secretary, Ministry of Foreign Affairs or his representative, as chairman;
  - (b) the director of the Immigration Department or his representative;
  - (c) a representative of the Vice-President; and
  - (d) the representative of the office of the United Nations High Commissioner for Refugees in Nigeria, who shall participate as an observer.
- (2) The functions of the Eligibility Committee shall be to-

**7.**

- (a) process and consider applications for refugee status and recommend such applicants that qualify for that status to the Federal Commissioner;
- (b) register persons who have been granted refugee status under this Act; and
- (c) exercise any other powers and perform any other duties that may be assigned to it, from time to time, by the Federal Commissioner for the Secretary to the Federal Government. PART IV

### *Appeal Board*

#### **Establishment of Refugee Appeal Board**

- (1) There is hereby established a body to be known as the Refugee Appeal Board (in this Act referred to as "the Board"), which shall consist of three legal officers to be appointed by the Secretary to the Federal Government after consultation with the Attorney-General of the Federation and Minister of Justice, at least one of whom shall be a person with adequate knowledge in international and comparative law.
- (2) The representative of the United Nations High Commissioner for Refugees in Nigeria may be invited to the proceedings of the Board and shall have the right to make oral or written representations on behalf of any person concerned in any appeal that is being heard by the Board.
- (3) The Board shall meet at the invitation of the Federal Commissioner or at the request of the Secretary to the Federal Government.
- (4) Subject to the provisions of section 8 of this Act, the Board shall hear appeals against the decisions of the Eligibility Committee on cases referred to it by the Secretary to the Federal Government or the Federal Commissioner.
- (5) The Board shall give due consideration to any representations made on behalf of an appellant before coming to a final decision on the appeal.

**8.**



- (6) The Board may invite the appellant for an oral interview and shall allow him to be represented by a legal practitioner, if he so desires.

## PART V

### *Procedures for seeking refugee status*

#### **Application for refugee's status**

- (1) Application for the grant of a refugee's status shall be made to the Federal Commissioner through the nearest competent officer or through the office of the United Nations High Commissioner for Refugees in Nigeria.
- (2) A competent officer to whom a person seeking asylum first presents himself shall, if he is not himself an immigration officer, as soon as possible notify an immigration officer that a person seeking refugee's status has entered into or is present in Nigeria.
- (3) An application received by the office of the United Nations High Commissioner for Refugees shall be forwarded to the Eligibility Committee constituted under section 6 (1) of this Act.
- (4) The Eligibility Committee may invite the applicant to appear before it.
- (5) The decision of the Eligibility Committee shall be notified in writing to the applicant by the Federal Commissioner.
- (6) If the Eligibility Committee recommends that the applicant shall not be granted refugee status, it shall give reasons for its decision.
- (7) In the case of a refusal to grant refugee status, the applicant may appeal against the decision of the Eligibility Committee to the Board established by section 7 (1) of this Act within thirty days of his being notified of the refusal.
- (8) While awaiting the final decision by the Board, the applicant shall be allowed to remain in the country in accordance with section 1 (3) of this Act.

## **9.**

- (9) If the applicant is finally refused a refugee status, he shall be given reasonable time to seek admission as a refugee into another country.

**9. Residence in Nigeria pending recognition as refugee or after refusal of recognition** Notwithstanding the provision of any other law, any person who has applied under section 8 of this Act for grant of refugee status and every member of his family, shall have the right to remain within Nigeria-

- (a) until such person has been granted refugee status under the provisions of this Act; or
- (b) where the application of such person is unsuccessful, until such person has had an opportunity to exhaust his right of appeal as provided in subsection (7) of section 8 of this Act; or
- (c) where such person has appealed under subsection (7) of section 8 of this Act and his appeal has been unsuccessful, until such person has been allowed a reasonable time and if he is in detention, has in addition been afforded reasonable facilities to seek admission to another country of his choice.

**10. Cessation or stay of proceedings in respect of illegal entry by refugees and protected persons**

Notwithstanding the provisions of the Customs, Excise, and Tariff, etc., (Consolidation) Act, as amended, no proceedings shall be instituted or continued against any person or any member of his family in respect of his unlawful entry into or unlawful presence within Nigeria -

- (a) if such person applies under section 8 of this Act for the grant of a refugee status, until a decision has been made on the application and, where appropriate, until such person has had an opportunity of exhausting his right of appeal under that section; or
- (b) if such person has been granted refugee status

**11. Residence in Nigeria of persons granted refugees status, etc.**

- (l) Every person who has been granted refugee status under this Act and members of his family shall, subject to the provisions of this Act, be -

- (a) issued with an identity card in the form prescribed by the Minister charged with responsibility for matters relating to internal affairs;
  - (b) issued with residence permit; and
  - (c) subject to all laws in force within Nigeria.
- (2) Every refugee and members of his family lawfully staying in Nigeria shall, in accordance with Article 28 of the 1951 United Nations Refugees Convention and Article VI of the Organisation of African Unity Convention of 10th September, 1969, Governing the Specific Aspects of Refugees Problems in Africa (hereafter referred to as "the 1969 OAU Convention"), be issued with the United Nations Travel Document.

## **12. Withdrawal of status of refugee**

- (1) If, at any time, the Federal Commissioner considers that there are reasonable grounds for believing that a person who has been granted a refugee status for the purposes of this Act-
- (a) should not have been so granted; or
  - (b) has ceased to be a refugee, the Federal Commissioner shall refer the case to the Eligibility Committee.
- (2) Where a case has been referred to the Eligibility Committee under subsection (1) of this section, the Eligibility Committee shall cause a written notice to be served upon the person whose status as a refugee is under reconsideration-
- (a) informing such person of the fact that his status as a refugee is to be reconsidered; and
  - (b) inviting such person to make written representations to the Eligibility Committee, within a period of fourteen days from the date of service of the notice, regarding his status as a refugee.
- (3) The Eligibility Committee shall consider every case referred to it under subsection (1) of this section and may make any inquiry or investigation it deems necessary into any such case.

- (4) After considering any advice or recommendation given or made to him by the Eligibility Committee, in relation to any case referred to the Eligibility Committee under subsection (1) of this section, the Federal Commissioner-
  - (a) may withdraw the grant of refugee status; and
  - (b) shall cause the person concerned to be notified in writing of his decision on the matter.

### **13. Right of appeal to the Secretary to the Federal Government**

- (1) Any person who is aggrieved by a decision of the Federal Commissioner to withdraw the grant of refugee status may, within seven days of being notified of such withdrawal, appeal in writing to the Secretary to the Federal Government.
- (2) In any appeal under subsection (1) of this section, the Secretary to the Federal Government may confirm or set aside the decision of the Federal Commissioner and shall cause the Federal Commissioner to be informed of his decision on the matter:

Provided that, before reaching a decision on an appeal, the Secretary to the Federal Government may do all or any of the following, that is-

- (a) invite the representative of the United Nations High Commissioner for Refugees in Nigeria to make oral or written representations in the matter;
  - (b) refer the matter to the Eligibility Committee for further inquiry and investigation;
  - (c) make such further inquiry and investigation into the matter as he may deem fit.
- (3) Where the Federal Commissioner has under section 12 (4) of this Act withdrawn the grant of refugee status, the person concerned shall cease to be a refugee, and any person who became a refugee by virtue of being a member of his family shall also cease to be a refugee with effect from-
    - (a) seven days after the date on which the Federal Commissioner notifies the person concerned that his refugee status has been withdrawn; or

- (b) where the person concerned has appealed to the Secretary to the Federal Government under subsection (1) of this section, the date on which the Secretary to the Federal Government notifies the person that he confirms the decision of the Federal Commissioner: Provided that nothing contained in this section shall be construed as preventing a person who became a refugee by virtue of being a member of the family of the person concerned, from himself applying for the grant of a refugee status.

## PART VI

### *Treatment of members of the family of a refugee*

#### **14. Family members of refugees**

The Federal Commissioner and all competent officers shall ensure that-

- (a) the members of the family of a refugee benefit from the same treatment as provided in section 1 (3) of this Act;
- (b) the members of the family of a refugee are permitted to enter Nigeria and to remain therein as long as the refugee concerned is permitted to remain in Nigeria under this Act.

## PART VII

### *Rights and duties of refugees*

#### **15. Rights and duties of refugees**

Every person granted a refugee status in Nigeria shall be entitled to the rights and subject to the duties contained in-

- (a) the articles of the United Nations Convention relating to the Status of Refugees set out in the First Schedule to this Act;
- (b) the Protocol Relating to the Status of Refugees of 31st January, 1967 set out in the Second Schedule to this Act; and
- (c) the Organisation of African Unity Convention governing the Specific Aspects of Refugee Problems in Africa, set out in the Third Schedule to this Act; and

(d) any laws in force in Nigeria.

## **16. Detention and expulsion of refugees**

- (1) A refugee may be detained or expelled for reasons of national security or public order provided that no refugee shall be expelled to a country where he has reasons to fear persecution.
- (2) A refugee who has been notified of a decision of expulsion may appeal to the Board established under section 7 of this Act for reconsideration of his position.

## **17. Naturalisation**

Subject to the provisions of relevant laws and regulations relating to naturalisation, the Federal Commissioner shall use his best endeavours to assist a refugee, who has satisfied the criteria relating to the acquisition of Nigerian nationality, to acquire the status of naturalisation under such relevant laws and regulations.

PART VIII

### *Miscellaneous*

## **18. Commission to give special assistance to refugees**

The Commission may-

- (a) adopt procedures to be followed by the competent officer for the purposes of facilitating entry and residence in Nigeria of refugees and members of their families;
- (b) seek co-operation with non-governmental organisations on matters relating to refugees;
- (c) give relief assistance to refugees while they are awaiting a final decision of the Board or the Secretary to the Government of the Federation;
- (d) assist in seeking employment or education for refugees and members of their families.

## **19. Regulations**

- (1) The Secretary to the Federal Government may make regulations prescribing all matters which by this Act are required or permitted to be prescribed or which, in the opinion of the Secretary to the Government of the Federation, are necessary or convenient to be prescribed for the better carrying out or giving full effect to the provisions of this Act.
- (2) Regulations made under subsection (1) of this section, may provide for-
  - (a) the assignments to the Eligibility Committee of functions relating to the investigation, inspection and supervision of the reception, treatment and welfare of refugees;
  - (b) the appointment of additional committee and the assignment to such committees of functions to be exercised, subject to the direction and control of the Federal Commissioner or the Eligibility Committee, in relation to the reception, treatment and welfare of refugees;
  - (c) the procedure at meetings of the Eligibility Committee and of additional committees, referred to in paragraph (b) of this subsection, including the participation at such meetings of the representative of the United Nations High Commissioner for Refugees in Nigeria;
  - (d) the procedure for the consideration of application for the grant of refugee status and the form in which such applications shall be made;
  - (e) the manner and form in which appeals may be made to the Board or the Secretary to the Federal Government under sections 8 and 13 of this Act;
  - (f) the issuance of identification documents to persons who have applied for grant of refugee status, and to members of their families;
  - (g) the form and issuance of identification and travel documents to refugees and to members of their families;
  - (h) the form of any order or notice required to be served on any person under sections 12 or 13 of this Act and the manner in which such order or notice may be served;



- (i) persons who are detained after appealing unsuccessfully under section 8 of this Act or who are detained under section 16 of this Act, the opportunity to travel to another country of their choice:

Provided that the Secretary to the Government of the Federation shall not make regulations for such a purpose, except with the approval of the Minister, to whom the administration of the Prisons Act has been assigned;

- (j) requiring employers, when considering applications for employment made by persons who are not citizens of Nigeria, to give preference to applicants who are refugees;
- (k) co-operation and consultation with the United Nations High Commissioner for Refugees concerning applicants for refugee status;
- (l) the making of representations by the United Nations High Commissioner for Refugees in relation to any person for the purposes of this Act and the services and assistance that may be rendered by the High Commissioner for or on behalf of any person for the purposes of this Act;
- (m) the form and manner in which effect shall be given to Article 35 of the Convention Relating to the Status of Refugees of the 28th July, 1951 and Article 11 of the 1967 Protocol to that convention.

- (3) Regulations made under subsection (l) of this section may prescribe penalties for contraventions thereof, but, no such penalty shall exceed a fine of N500 or imprisonment for a term of six months or both such fine and such imprisonment.

## **20. Meaning of "refugee", etc.**

- (1) For the purposes of this Act, etc. a person shall be considered a refugee if he falls within the definition provided by-
  - (a) Article I of the 1951 United Nations Convention set out in the First Schedule to this Act;
  - (b) Article 1 of the 1967 Protocol Relating to the Status of Refugee, set out in the Second Schedule to this Act;



- (c) Article I of the 1969 Organisation of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa, set out in the Third Schedule to this Act.
- (2) A person shall not be considered to be a refugee under this Act -
- (a) when there are serious reasons to believe that he has committed a crime against peace, war crime or a crime against humanity, as defined in any international instrument to which Nigeria is a party and which has been drawn up to make provisions in respect of such crimes; or
- (b) he has committed a serious non-political crime outside Nigeria prior to his entry;
- (c) he has been guilty of acts contrary to the purposes and principles of the Organisation of African Unity.
- (3) A person shall cease to be a refugee under this Act if-
- (a) he has voluntarily re-availed himself of the protection of the country of his nationality; or
- (b) he has voluntarily re-established himself in the country which he left, or outside which he remained owing to fear of persecution; or
- (c) he can no longer, because the circumstances in connection with which he was granted a refugee status have ceased to exist, continue to refuse to avail himself of the protection of the country of his nationality.

## **21. Interpretation**

In this Act, unless the context otherwise requires-

**"country of nationality"** in relation to a person who has more than one nationality, means each of the countries of which that person is a national;

**"competent officer"** means immigration officer, customs officer, police or security officer;

**"frontier"** means land-frontier, sea-frontier, port or airport of entry;

**"members of the family"** in relation to a refugee means spouse or spouses, unmarried children under the age of maturity and any other relative of the refugee who is dependent on him.

## **22. Short title**

This Act may be cited as the National Commission for Refugees, etc. Act.

## **SCHEDULES**

### FIRST SCHEDULE

[Section 15 (a).]

*Articles of Conventions applicable to recognised refugees and protected persons*

### CHAPTER I

*Articles of Convention relating to the status of refugees of the 28th July, 1951*

### ARTICLE I

*Definition of the term "refugee"*

**A.** For the purposes of the present Convention, the term **"refugee"** shall apply to any person who-

- (1) Has been considered a refugee under the Arrangements of 12 May, 1926 and 30 June, 1928 or under the Conventions of 28 October, 1933 and 10 February, 1938, the Protocol of 14 September, 1939 or the Constitution of the International Refugee Organisation;

Decisions of non-eligibility taken by the International Refugee Organisation during the period of its activities shall not prevent the status of refugee being accorded to persons who fulfil the conditions of paragraph 2 of this section.

- (2) As a result of events occurring before 1 January, 1951 and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is willing to return to it.

In the case of a person who has more than one nationality, the term "**the country of his nationality**" shall mean each of the countries of which he is a national, and a person shall not be deemed to be lacking the protection of the country of his nationality if, without any valid reason based on wellfounded fear, he has not availed himself of the protection of one of the countries of which he is a national.

**B. (1)** For the purposes of this Convention, the words "**events occurring before 1 January, 1951**" in Article 1, section A, shall be understood to mean either-

- (a) "events occurring in Europe before 1 January, 1951"; or  
(b) "events occurring in Europe or elsewhere before 1 January, 1951",

and each Contracting State shall make a declaration at the time of signature, ratification or accession, specifying which of these meanings it applies for the purpose of its obligations under this Convention.

- (2) Any Contracting State which has adopted alternative (a) may at any time extend its obligations by adopting alternative (b) by means of notification addressed to the Secretary-General of the United Nations.

**C.** This Convention shall cease to apply to any person falling under the terms of section A if-

- (1) he has voluntarily re-availed himself of the protection of the country of his nationality; or  
(2) having lost his nationality, he has voluntarily re-acquired it; or  
(3) he has acquired a new nationality, and enjoys the protection of the country of his new nationality; or

- (4) he has voluntarily re-established himself in the country which he left or outside which he remained, owing to fear of persecution; or
- (5) he can no longer, because the circumstances in connection with which he has been recognised as a refugee have ceased to exist, continue to refuse to avail himself of the protection of the country of his nationality:

Provided that this paragraph shall not apply to a refugee falling under section A (1) of this Article, who is able to invoke compelling reasons arising out of previous persecution, for refusing to avail himself of the protection of the country of nationality;

- (6) Being a person who has no nationality he is, because the circumstances in connection with which he has been recognised as a refugee have ceased to exist, able to return to the country of his former habitual residence:

Provided that this paragraph shall not apply to a refugee falling under section A (1) of this Article who is able to invoke compelling reasons arising out of previous persecution, for refusing to return to the country of his former habitual residence.

- D.** This Convention shall not apply to persons who are at present receiving from organs or agencies of the United Nations, other than the United Nations High Commissioner for Refugees, protection or assistance.

When such protection or assistance has ceased for any reason, without the position of such person being definitively settled in accordance with the relevant resolutions adopted by the General Assembly of the United Nations, these persons shall *ipso facto* be entitled to the benefits of this Convention.

- E.** This Convention shall not apply to a person who is recognised by the competent authorities of the country in which he has taken residence as having the rights and obligations which are attached to the possession of the nationality of that country.

- F.** The provisions of this Convention shall not apply to any person with respect to whom there are serious reasons for considering that-
  - (a) he has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;

- (b) he has committed a serious non-political crime outside the country of refuge, prior to his admission to that country as a refugee;
- (c) he has been guilty of acts contrary to the purposes and principles of the United Nations.

## ARTICLE 2

### *General obligations*

Every refugee has duties to the country in which he finds himself, which require in particular that he conform to its laws and regulations, as well as to measures taken for the maintenance of public order. ARTICLE 3

### *Non-discrimination*

The Contracting States shall apply the provisions of this Convention to refugees without discrimination as to race, religion or country of origin.

## ARTICLE 4

### *Religion*

The Contracting State shall accord to refugees within their territories treatment at least as favourable as that accorded to their nationals with respect to freedom to practise their religion and freedom, as regards the religious education of their children.

## ARTICLES

### *Rights granted apart from this Convention*

Nothing in this Convention shall be deemed to impair any rights and benefits granted by a Contracting State to refugees apart from this Convention.

## ARTICLE 6

### *The term "in the same circumstances"*

For the purpose of this Convention, the term "**in the same circumstances**" implies that any requirements (including requirements as to length and conditions of sojourn or residence), which the particular individual would

have to fulfil for the enjoyment of the right in question, if he were not a refugee, must be fulfilled by him, with the exception of requirements which, by their nature, a refugee is incapable of fulfilling.

## ARTICLE 7

### *Exemption from reciprocity*

- 1.** Except where this Convention contains more favourable provisions, a Contracting State shall accord to refugees the same treatment as is accorded to aliens generally.
- 2.** After a period of three years' residence, all refugees shall enjoy exemption from legislative reciprocity in the territory of the Contracting States.
- 3.** Each Contracting State shall continue to accord to refugees the rights and benefits to which they were already entitled, in the absence of reciprocity, at the date of entry into force of this Convention for that State.
- 4.** The Contracting States shall consider favourably the possibility of according to refugees, in the absence of reciprocity, rights and benefits beyond those to which they are entitled, according to paragraphs 2 and 3, to extending exemption from reciprocity to refugees who do not fulfil the conditions provided for in paragraphs 2 and 3.
- 5.** The provisions of paragraphs 2 and 3 apply both to the rights and benefits referred to in Articles 13, 18, 19, 21 and 22 of this Convention and to rights and benefits for which this Convention does not provide.

## ARTICLE 8

### *Exemption from exceptional measures*

With regard to exceptional measures which may be taken against the person, property, or interests of nationals of a foreign State, the Contracting States shall not apply such measures to a refugee who is formally a national of the said State solely on account of such nationality.

Contracting States which, under their legislation are prevented from applying the general principle expressed in this Article, shall, in appropriate cases, grant exemptions in favour of such refugees. ARTICLE 9

#### *Provisional measures*

Nothing in this Convention shall prevent a Contracting State, in time of war or other grave and exceptional circumstances, from taking provisionally, measures which it considers to be essential to the national security in the case of a particular person, pending a determination by the Contracting State that that person is in fact a refugee and that the continuance of such measures is necessary in his case in the interest of national security.

#### ARTICLE 10

##### *Continuity of residence*

- 1.** Where a refugee has been forcibly displaced during the Second World War and removed to a territory of a Contracting State, and is resident there, the period of such enforced sojourn shall be considered to have been lawful residence within that territory.
- 2.** Where a refugee has been forcibly displaced during the Second World War from the territory of a Contracting State and has, prior to the date of coming into force of this Convention, returned there for the purpose of taking up residence, the period of residence before and after such enforced displacement shall be regarded as one uninterrupted period for any purposes for which uninterrupted residence is required.

#### ARTICLE 11

##### *Refugee seamen*

In the case of refugees regularly serving as crew members on board a ship flying the flag of a Contracting State, that State shall give sympathetic consideration to their establishment on its territory and the issue of travel documents to them or their temporary admission to its territory, particularly with a view to facilitating their establishment in another country.

#### CHAPTER II

##### *Juridical status*



## ARTICLE 12

### *Personal status*

- 1.** The personal status of a refugee shall be governed by the law of the country of his domicile or, if he has no domicile, by the law of the country of his residence.
- 2.** Rights previously acquired by a refugee and dependent on personal status, more particularly rights attaching to marriage, shall be respected by a Contracting State, subject to compliance, if necessary, with the formalities required by the law of that State, provided that the right in question is one which would have been recognised by the law of that State had he not become a refugee.

## ARTICLE 13

### *Movable and immovable property*

The Contracting States shall accord to a refugee treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, as regards the acquisition of movable and immovable property and other rights pertaining thereto, and to leases and other contracts relating to movable and immovable property.

## ARTICLE 14

### *Artistic rights and industrial property*

In respect of the protection of industrial property, such as inventions, designs, or models, trade marks, trade names, and of rights in literary, artistic and scientific works, a refugee shall be accorded in the country in which he has his habitual residence, the same protection as is accorded to nationals of that country. In the territory of any other Contracting State, he shall be accorded the same protection as is accorded in that territory to nationals of the country in which he has his habitual residence.

## ARTICLE 15

### *Right of association*

As regards non-political and non-profit making associations and trade unions, the Contracting States shall accord to refugees lawfully staying in



their territory the most favourable treatment accorded to nationals of a foreign country, in the same circumstances.

## ARTICLE 16

### *Access to courts*

- 1.** A refugee shall have free access to the courts of law on the territory of all Contracting States.
- 2.** A refugee shall enjoy in the Contracting State in which he has his habitual residence the same treatment as a national in matters pertaining to access to the courts, including assistance and exemption from *cautio judicatum solvi*.
- 3.** A refugee shall be accorded in the matters referred to in paragraph 2 in countries other than that in which he has his habitual residence, the treatment granted to a national of the country of his habitual residence.

## CHAPTER III

### *Gainful employment*

## ARTICLE 17

### *Wage-earning employment*

- 1.** The Contracting State shall accord to refugees lawfully staying in their territory the most favourable treatment accorded to nationals of a foreign country in the same circumstances, as regards the rights to engage in wage-earning employment.
- 2.** In any case, restrictive measures imposed on aliens or the employment of aliens for the protection of the national labour market shall not be applied to a refugee who was already exempted from them at the date of entry into force of this Convention for the Contracting State concerned, or who fulfils one of the following conditions-
  - (a) he has completed three years' residence in the country;

- (b) he has a spouse possessing the nationality of the country of residence. A refugee may not invoke the benefits of this provision if he has abandoned his spouse;
  - (c) he has one or more children possessing the nationality of the country of residence.
- 3.** The Contracting States shall give sympathetic consideration to assimilating the rights of all refugees with regard to wage-earning employment to those of nationals, and in particular to those refugees who have entered their territory, pursuant to programmes of labour recruitment or under immigration schemes.

## ARTICLE 18

### *Self-employment*

The Contracting States shall accord to a refugee lawfully in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, as regards the right to engage on his own account in agriculture, industry, handicrafts and commerce and to establish commercial and industrial companies.

## ARTICLE 19

### *Liberal professions*

- 1.** Each Contracting State shall accord to refugees lawfully staying in their territory who hold diplomas recognised by the competent authorities of that State, and who are desirous of practicing a liberal profession, treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances.
- 2.** The Contracting States shall use their best endeavours consistently with their laws and constitutions to secure the settlement of such refugees in the territories other than the metropolitan territory, for whose international relation they are responsible.

## CHAPTER IV

### *Welfare*

## ARTICLE 20

### *Rationing*

Where a rationing system exists, which applies to the population at large and regulates the general distribution of products in short supply, refugees shall be accorded the same treatment as nationals. ARTICLE 21

### *Housing*

As regards housing, the Contracting States, in so far as the matter is regulated by laws or regulations or is subject to the control of public authorities, shall accord to refugees lawfully staying in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances.

### ARTICLE 22

#### *Public education*

- 1.** The Contracting States shall accord to refugees the same treatment as is accorded to nationals with respect to elementary education.
- 2.** The Contracting States shall accord to refugees treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, with respect to education other than elementary education and, in particular, as regard access to studies, the recognition of foreign school certificates, diplomas and degrees, the remission of fees and charges and the award of scholarships.

### ARTICLE 23

#### *Public relief*

The Contracting States shall accord to refugees lawfully staying in their territory the same treatment with respect to public relief and assistance, as is accorded to their nationals.

### ARTICLE 24

#### *Labour legislation and social security*

- 1.** The Contracting States shall accord to refugees lawfully staying in their territory the same treatment as is accorded to nationals in respect of the following matters-
  - (a) in so far as such matters are governed by laws or regulations or are subject to the control of administrative authorities: remuneration, including family allowances where these form part of remuneration, hours of work, overtime arrangements, holidays with pay, restrictions on home work, minimum age of employment, apprenticeship and training, womens' work and the work of young persons and the enjoyment of the benefits of collective bargaining;
  - (b) social security (legal provisions in respect of employment injury occupational diseases, maternity, sickness, disability, old age, death, unemployment, family responsibilities and any other contingency which, according to national laws or regulations, is covered by a social security scheme), subject to the following limitations-
    - (i) there may be appropriate arrangements for the maintenance of acquired rights and rights in course of acquisitions;
    - (ii) national laws or regulations of the country of residence may prescribe special arrangements concerning benefits or portions of benefits which are payable wholly out of public funds, and concerning allowances paid to persons who do not fulfil the contribution conditions prescribed for the award of a normal pension.
- 2.** The right to compensation for the death of a refugee resulting from employment injury or from occupational disease shall not be affected by the fact that the residence of the beneficiary is outside the territory of the Contracting State.
- 3.** The Contracting States shall extend to refugees the benefits of agreement concluded between them, or which may be concluded between them in the future, concerning the maintenance of acquired rights and rights in the process of acquisition in regard to social security, subject only to the conditions which apply to nationals of the States signatory to the agreements in question.
- 4.** The Contracting States will give sympathetic consideration to extending to refugees so far as possible the benefits of similar agreements which may at any time be in force between such Contracting States and non-Contracting States.

## CHAPTER V

### *Administrative measures*

#### ARTICLE 25

##### *Administrative assistance*

- 1.** When the exercise of a right by a refugee would normally require the assistance of authorities of a foreign country to whom he cannot have recourse, the Contracting States in whose territory he is residing shall arrange that such assistance be afforded to him by their own authorities or by an international authority.
- 2.** The authority or authorities mentioned in paragraph I shall deliver or cause to be delivered under their supervision to refugees, such documents or certificates as would normally be delivered to aliens by or through their national authorities.
- 3.** Documents or certifications so delivered shall stand in the stead of the official instruments delivered to aliens by or through their national authorities, and shall be given credence in the absence of proof to the contrary.
- 4.** Subject to such exceptional treatment as may be granted to indigent persons, fees may be charged for the services mentioned herein, but such fees shall be moderate and commensurate with those charged to nationals for similar services.
- 5.** The provisions of this Article shall be without prejudice to Articles 27 and 28.

#### ARTICLE 26

##### *Freedom of movement*

Each Contracting State shall accord to refugees lawfully in its territory the right to choose their place of residence and to move freely within its territory, subject to any regulations applicable to aliens generally in the same circumstances.

#### ARTICLE 27

### *Identity papers*

The Contracting States shall issue identity papers to any refugee in their territory who does not possess a valid travel document. ARTICLE 28

### *Travel documents*

- 1.** The Contracting States shall issue to refugees lawfully staying in their territory 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.
- 2.** Travel documents issued to refugees under previous international agreements by parties thereto shall be recognised and treated by the Contracting States in the same way as if they had been issued pursuant to this article.

### ARTICLE 29

### *Fiscal charges*

- 1.** The Contracting States shall not impose upon refugees duties, charges or taxes, of any description whatsoever, other or higher than those which are or may be levied on their nationals in similar situations.
- 2.** Nothing in the above paragraph shall prevent the application to refugees of the laws and regulations concerning charges in respect of the issue to aliens of administrative documents including identity papers.

### ARTICLE 30

### *Transfer of assets*

- 1.** A Contracting State shall, in conformity with its laws and regulations, permit refugees to transfer assets which they have brought into its

territory, to another country where they have been admitted for the purposes of resettlement.

- 2.** A Contracting State shall give sympathetic consideration to the application of refugees for permission to transfer assets wherever they may be and which are necessary for their resettlement in another country to which they have been admitted.

## ARTICLE 31

### *Refugees unlawfully in the country of refuge*

- 1.** The Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of Article I, enter or are present in their territory without authorisation, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence.
- 2.** The Contracting States shall not apply to the movements of such refugees restrictions other than those which are necessary and such restrictions shall only be applied until their status in the country is regularised or they obtain admission into another country. The Contracting States shall allow such refugees a reasonable period and all the necessary facilities to obtain admission into another country.

## ARTICLE 32

### *Expulsion*

- 1.** The Contracting States shall not expel a refugee lawfully in their territory, save on grounds of national security or public order.
- 2.** The expulsion of such a refugee shall be only in pursuance of a decision reached in accordance with due process of law. Except where compelling reasons of national security otherwise require, the refugee shall be allowed to submit evidence to clear himself, and to appeal to and be represented for the purpose, before competent authority or a person or persons specially designated by the competent authority.
- 3.** The Contracting States shall allow such a refugee a reasonable period within which to seek legal admission into another country. The

Contracting States reserve the right to apply that period such internal measures as they may deem necessary.

## ARTICLE 33

### *Prohibition of expulsion or return ("refoulement")*

- 1.** No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever, to the frontiers of territories where his life or freedom would be threatened, on account of his race, religion, nationality, membership of a particular social group or political opinion.
- 2.** The benefit of the present provision may not, however, be claimed by a refugee, whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that country.

## ARTICLE 34

### *Naturalisation*

The Contracting States shall as far as possible facilitate the assimilation and naturalisation of refugees. They shall in particular make every effort to expedite naturalisation proceedings and to reduce as far as possible the charges and costs of such proceedings.

## CHAPTER VI

### *Executory and transitory provisions*

## ARTICLE 35

### *Co-operation of the national authorities with the United Nations*

- 1.** The Contracting States undertake to co-operate with the Office of the United Nations High Commissioner for Refugees, or any other agency of the United Nations which may succeed it, in the exercise of its functions, and shall in particular facilitate its duty of supervising the application of the provisions of this Convention.
- 2.** In order to enable the Office of the High Commissioner or any other agency of the United Nations which may succeed it, to make reports to



the competent organs of the United Nations, the Contracting States undertake to provide them in the appropriate form with information and statistical data requested concerning-

- (a) the condition of refugees;
- (b) the implementation of this Convention; and
- (c) laws, regulations and decrees which are, or may hereafter be, in force relating to refugees.

SCHEDULE  
[Article 28.]

*Travel document*

*Paragraph 1*

- 1.** The travel document referred to in Article 28 of this Convention shall be similar to the specimen annexed hereto.
- 2.** The documents shall be made out in at least two languages, one of which shall be English or French.

*Paragraph 2*

Subject to the regulations obtained in the country of issue, children may be included in the travel document of a parent or, in exceptional circumstances, of another adult refugee.

*Paragraph 3*

The fee charged for issue of the document shall not exceed the lowest scale of charges for national passport.

*Paragraph 4*

Save in special or exceptional cases, the document shall be made valid for the largest possible number of countries.

*Paragraph 5*

The document shall have a validity of either one or two years at the discretion of the issuing authority.

*Paragraph 6*

- 1.** The renewal or extension of the validity of the document is a matter for the authority which issued it, so long as the holder has not established lawful residence in another territory and resides lawfully in the territory of the said authority. The issue of a new document is, under the same conditions, a matter for the authority which issued the former document.
- 2.** Diplomatic or consular authorities, specially authorised for the purpose, shall be empowered to extend, for a period not exceeding six months, the validity of travel documents issued by their Governments.
- 3.** The Contracting States shall give sympathetic consideration to renewing or extending the validity of travel documents.

SECOND SCHEDULE

[Section 15 (b).]

*Protocol relating to the status of refugees of 31 January, 1967*

*Entry into force: 4 October, 1967, in accordance with Article VIII*

*Text: United Nations Treaty Series No. 8791 Vol. 606 P. 267*

The States Parties to the present Protocol-

Considering that the Convention relating to the Status of refugees done at Geneva on 28 July, 1951 (hereinafter referred to as "the Convention"), covers only those persons who have become refugees as a result of events occurring before 1 January, 1951.

Considering that new refugee situations have arisen since the Convention was adopted and that the refugees concerned may therefore not fall within the scope of the Convention.

Considering that it is desirable that equal status should be enjoyed by all refugees covered by the definition in the Convention, irrespective of the dateline 1 January, 1951.

Have agreed as follows-

## ARTICLE I

### *General provision*

- 1.** The States Parties to the present Protocol undertake to apply Articles 2 to 34 inclusive of the Convention to refugees as herein after defined.
- 2.** For the purposes of the present Protocol, the term "**refugees**" shall, except as regards the applications of paragraph 3 of this Article, mean any person within the definition of Article 1 of the Convention as if the words "As a result of events occurring before 1 January, 1951 and and the words " ... as a result of such events" in Article IA (2) were omitted.
- 3.** The present Protocol shall be applied by the States Parties hereto, without any geographic limitation, save that existing declarations made by States already parties to the Convention in accordance with Article IB (1) (a) of the Convention, shall, unless extended under Article IB (2) thereof, apply also under the present Protocol.

## ARTICLE II

### *Co-operation of the authorities with the United Nations*

- 1.** The States Parties to the present Protocol undertake to co-operate with the Office of the United Nations High Commissioner for Refugees, or any other agency of the United Nations which may succeed it, in the exercise of its functions, and shall in particular facilitate its duty of supervising the application of the provisions of the present Protocol.
- 2.** In order to enable the Office of the High Commissioner, or any other agency of the United Nations which may succeed it, to make reports to the competent organs of the United Nations, the States Parties to the present Protocol undertake to provide them with the information and statistical data requested, in the appropriate form, concerning-
  - (a) the condition of refugees;
  - (b) the implementation of the present Protocol;
  - (c) laws, regulations and decrees which are, or may hereafter be, in force relating to refugees.

## ARTICLE III

### *Information on National legislation*

The States Parties to the present Protocol shall communicate to the Secretary-General of the United Nations the laws and regulations which they may adopt to ensure the application of the present Protocol.

## ARTICLE IV

### *Settlement of dispute*

Any dispute between States Parties to the present Protocol which relates to its interpretation or application and which cannot be settled by other means shall be referred to the International Court of Justice at the request of anyone of the parties to the dispute.

## ARTICLE V

### *Accession*

The present Protocol shall be open for accession on behalf of all States Parties to the Convention and of any other State Member of the United Nations or member of any of the specialised agencies or to which an invitation to accede may have been addressed by the General Assembly of the United Nations. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

## ARTICLE VI

### *Federal clause*

In the case of a Federal or non-unitary State, the following provisions shall apply-

- (a) with respect to those articles of the Convention to be applied in accordance with Article I, paragraph 1, of the present Protocol that come within the legislative jurisdiction of the federal legislative authority, the obligations of the Federal Government shall to this extent be the same as those of States Parties which are not Federal States;

- (b) with respect to those articles of the Convention to be applied in accordance with Article I, paragraph I, of the present Protocol that come within the legislative jurisdiction of constituent system of the Federation, bound to take legislative action, the Federal Government shall bring such articles with a favourable recommendation to the notice of the appropriate authorities of States, provinces or cantons at the earliest possible moment;
- (c) a Federal State Party to the present Protocol shall, at the request of any other State Party hereto, transmitted through the Secretary-General of the United Nations, supply a statement of the law and practice of the Federation and its constituent units in regard to any particular provision of the Convention to be applied in accordance with Article 1, paragraph I of the present Protocol, showing the extent to which effect has been given to that provision by legislative or other action.

## ARTICLE VII

### *Reservations and declarations*

- 1.** At the time of accession, any State may make reservations in respect of Article IV of the present Protocol and in respect of the application in accordance with Article I of the present Protocol of any provisions of the Convention other than those contained in Articles I, 3, 4, 16 (1) and 33 thereof, provided that, in the case of a State Party to the Convention, reservations made under this Article shall not extend to refugees in respect of whom the convention applies.
- 2.** Reservations made by States Parties to the Convention in accordance with Article 42 thereof shall, unless withdrawn, be applicable in relation to their obligations under the present Protocol.
- 3.** Any State making a reservation in accordance with paragraph I of this Article may, at any time, withdraw such reservation by a communication to that effect, addressed to the Secretary-General of the United Nations.
- 4.** Declarations made under Article 40, paragraphs I and 2 of the Convention by a State Party thereto which accedes to the present Protocol shall be deemed to apply in respect of the present Protocol, unless upon accession, a notification to the contrary is addressed by the State Party concerned, to the Secretary-General of the United

Nations. The provisions of Article 40, paragraphs 2 and 3, and of Article 44, paragraph 3, of the Convention, shall be deemed to apply *mutatis mutandis* to the present Protocol.

## ARTICLE IX

### *Denunciation*

1. The present Protocol shall come into force on the day of deposit of the sixth instrument of accession.
2. Such denunciation shall take effect for the State Party concerned one year from the date of which it is received by the Secretary-General of the United Nations.

## ARTICLE X

### *Notifications by the Secretary-General of the United Nations*

The Secretary-General of the United Nations shall inform the State referred to in Article V above of the date of entry into force, accessions, reservations and withdrawals of reservations to and denunciations of the present Protocol, and of declarations and notifications relating hereto.

## ARTICLE XI

### *Deposit in the archives of the secretariat of the United Nations*

A copy of the present Protocol, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, signed by the President of the General Assembly and the Secretary-General, will transmit certified copies thereof to all States Members of the United Nations and to the other States referred to in Article V above.

## APPENDIX

### *General Assembly Resolution 2/98 (XXI) Protocol relating to the Status of Refugees* The General Assembly,

Considering that the Convention relating to the Status of Refugees signed at Geneva on 28 July, 1951, covers only those persons who have become refugees as a result of events occurring before 1 January, 1951.

Considering that new refugee situations have arisen since the Convention was adopted and that the refugees concerned may therefore not fall within the scope of the Convention.

Considering that it is desirable that equal status should be enjoyed by all refugees covered by the definition in the Convention, irrespective of the date-line of 1 January, 1951.

Taking note of the recommendation of the Executive Committee of the Programme of the United Nations High Commissioner for Refugees, that the draft Protocol relating to the Status of Refugees should be submitted to the General Assembly, after consideration by the Economic and Social Council, in order that the Secretary-General might be authorised to open the Protocol for accession by Governments within the shortest possible time.

Considering that the Economic and Social Council, in its resolution 1186 (XII) of 18 November, 1966, took note with approval of the draft Protocol contained in the addendum to the report of the United Nations High Commissioner for Refugees and concerning measures to extend the personal scope of the Convention and transmitted the addendum to the General Assembly.

1. Takes note of the Protocol relating to the Status of Refugees, the text of which is contained in the addendum to the report of the United Nations High Commissioner for Refugees.
2. Requests the Secretary-General to transmit the text of the Protocol to the States mentioned in Article V thereof, with a view to enabling them to accede to the Protocol.

1495<sup>th</sup> plenary meeting, 16 December, 1966.

### THIRD SCHEDULE

[Section 16 (c).]

*Organisation of African Unity Convention governing the specific aspects of refugee problems in Africa*

*Adopted by the Assembly of Heads of State and Government at its ordinary session (Addis Ababa, 10 September, 1969)*

*Entry into Force: 20 June, 1974, in accordance with Article XI*



*Text: United Nations Treaty Series No. 1469/  
Preamble*

We, the Heads of State and Government assembled in the city of Addis Ababa, from 6-10 September, 1969.

- 1.** Noting with concern the constantly increasing numbers of refugees in Africa and desirous of finding ways and means of alleviating their misery and suffering, as well as providing them with a better life and future.
- 2.** Recognising the need for and essentially humanitarian approach towards solving the problems of refugees.
- 3.** Aware, however, that refugee problems are a source of friction among many Member States, and desirous of eliminating the source of such discord.
- 4.** Anxious to make a distinction between a refugee who seeks a peaceful and normal life and a person fleeing his country for the sole purpose of subversion from outside.
- 5.** Determined that the activities of such subversion elements should be discouraged, in accordance with the Declaration on the Problem of Subversion and Resolution on the Problem of Refugees adopted at Accra in 1965.
- 6.** Bearing in mind that the Charter of the United Nations and the Universal Declaration of Human Rights have affirmed the principle that human beings shall enjoy fundamental rights and freedoms, without discrimination.
- 7.** Recalling Resolution 2313 (XXII) of 14 December, 1967 of the United Nations General Assembly, relating to the Declaration on Territorial Asylum.
- 8.** Convinced that all the problems of our continent must be solved in the spirit of the Charter of the Organisation of African Unity and in the African context.
- 9.** Recognising that the United Nations Convention of 28 July, 1951, as modified by the Protocol of 31 January, 1967, constitutes the basic and universal instrument relating to the status of refugees and reflects



the deep concern of States for refugees and their desires to establish common standard for their treatment.

- 10.** Recalling Resolutions 26 and 104 of the Organisation of African Unity Assemblies of Heads of States and Government, calling upon Member States of the Organisation who had not already done so, to accede to the United Nations Convention of 1951 and to the Protocol of 1967 relating to the Status of Refugees, and meanwhile to apply their provisions to refugees in Africa.
- 11.** Convinced that the efficiency of the measure recommended by the present Convention to solve the problem of refugees in African necessitates close and continuous collaboration between the Organisation of African Unity and the Office of the United Nations High Commissioner for Refugees have agreed as follows -

## ARTICLE I

### *Definition of the term "refugee"*

- 1.** For the purposes of this Convention, the term "**refugee**" shall mean every person who, owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country, or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, unwilling to return to it.
- 2.** The term "**refugee**" shall also apply to every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality.
- 3.** In the case of a person who has several nationalities, the term "a country of which he is a national" shall mean each of the countries of which he is a national, and a person shall not be deemed to be lacking the protection of the country of which he is a national if, without any valid reason based on well-founded fear, he has not availed himself of the protection of one of the countries of which he is a national.

- 4.** This Convention shall cease to apply to any refugee if-
- (a) he has voluntarily re-availed himself of the protection of the country of his nationality; or
  - (b) having lost his nationality, he has voluntarily reacquired it; or
  - (c) he has acquired new nationality, and enjoys the protection of the country of his new nationality; or
  - (d) he has voluntarily re-established himself in the country which he left or outside which he remained owing to fear of persecution; or
  - (e) he can no longer, because the circumstances in connection with which he was recognised as a refugee have ceased to exist, continue to refuse to avail himself of the protection of the country of his nationality; or
  - (f) he has committed a serious non-political crime outside his country of refuge, after his admission to that country as a refugee; or
  - (g) he has seriously infringed the purposes and objectives of this Convention.
- 5.** The provisions of this Convention shall not apply to any person, with respect to whom the country of asylum has serious reason for considering that-
- (a) he has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;
  - (b) he has committed a serious non-political crime outside the country of refuge, prior to his admission to that country as a refugee;
  - (c) he has been guilty of acts contrary to the purposes and principles of the Organisation of African Unity;
  - (d) he has been guilty of acts contrary to the purposes and principles of the United Nations.
- 6.** For the purposes of this Convention, the Contracting State of Asylum shall determine whether an applicant is a refugee.

## ARTICLE II

### *Asylum*

- 1.** Member States of the Organisation of African Unity shall use their best endeavours, consistent with their respective legislations, to receive refugees and to secure the settlement of those refugees who, for well-founded reasons, are unable or unwilling to return to their country of origin or nationality.
- 2.** The grant of asylum to refugees is a peaceful and humanitarian act and shall not be regarded as an unfriendly act by any Member State.
- 3.** No person shall be subjected by a Member State to measures, such as rejection at the frontier, return or expulsion, which would compel him to return to or remain in a territory where his life, physical integrity or liberty would be threatened for the reasons set out in Article I, paragraphs 1 and 2.
- 4.** Where a Member State finds difficulty in continuing to grant asylum to refugees, such Member State may appeal directly to other Member States and through the Organisation of African Unity, and such other Member States shall, in the spirit of African solidarity and international co-operation, take appropriate measures to lighten the burden of the Member State granting asylum.
- 5.** Where a refugee has not received the right to reside in any country of asylum, he may be granted temporary residence in any country of asylum in which he first presented himself as a refugee, pending arrangement for his resettlement in accordance with the preceding paragraph.
- 6.** For reasons of security, countries of asylum shall, as far as possible, settle refugees at a reasonable distance from the frontier of their country of origin.

## ARTICLE III

### *Prohibition of subversive activities*

- 1.** Every refugee has duties to the country in which he finds himself, which require in particular that he conforms with its laws and regulations as well as with measures taken for the maintenance of

public order. He shall also abstain from any subversive activities against any Member State of the Organisation of African Unity.

2. Signatory States undertake to prohibit refugees residing in their respective territories from attacking any Member of the Organisation of African Unity, by any activity to cause tension between Member States, and in particular by use of arms, through the press, or by radio.

## ARTICLE IV

### *Non-discrimination*

Member States undertake to apply the provisions of this Convention to all refugees without discrimination as to race, religion, nationality, membership of a particular social group or political opinions.

## ARTICLE V

### *Voluntary repatriation*

1. The essentially voluntary character of repatriation shall be respected in all cases and no refugee shall be repatriated against his will.
2. The country of asylum, in collaboration with country of origin, shall make adequate arrangement for the safe return of refugees who request repatriation.
3. The country of origin, on receiving back refugees, shall facilitate their resettlement and grant them the full rights and privileges of nationals of the country, and subject them to the same obligations.
4. Refugees who voluntarily return to their country shall in no way be penalized for having left it for any of the reasons giving rise to refugee situations. Whenever necessary, an appeal shall be made through national information media and through the Administrative Secretary-General of the Organisation of African Unity, inviting refugees to return home and giving assurance that the new circumstances prevailing in their country of origin will enable them to return without risk and to take up a normal and peaceful life without fear of being disturbed or punished, and that the text of such appeal should be given to refugees and clearly explained to them by their country of asylum.

5. Refugees who freely decide to return to their homeland, as a result of such assurances or on their own initiative, shall be given every possible assistance by the country of asylum, the country of origin, voluntary agencies and international and inter-governmental organisations, to facilitate their return.

## ARTICLE VI

### *Travel documents*

1. Subject to Article **III**, Member States shall issue to refugees lawfully staying in their territories travel documents in accordance with the United Nations Convention relating to the Status of Refugees and the Schedule and Annex thereto, for the purpose of travel outside their territory, unless compelling reasons of national security or public order otherwise require. Member States may issue such a travel document to any other refugee in their territory.
2. Where an African country of second asylum accepts a refugee from a country of first asylum, the country of first asylum may be dispensed from issuing a document with a return clause.
3. Travel documents issued to refugees under previous international agreements by States Parties thereto shall be recognised and treated by Member States in the same way as if they had been issued to refugees pursuant to this Article.

## ARTICLE VII

### *Co-operation of the national authorities with the Organisation of African Unity*

In order to enable the Administrative Secretary-General of the Organisation of African Unity to make reports to the competent organs of the Organisation of African Unity, Member States undertake to provide the Secretariat in the appropriate form, with information and statistical data requested concerning-

- (a) the condition of refugees;
- (b) the implementation of this Convention; and
- (c) laws, regulations and decrees which are, or any hereafter be, in force relating to refugees.

## ARTICLE VIII

### *Co-operation with the office of the United Nations High Commissioner for Refugees*

- 1.** Member States shall co-operate with the Office of the United Nations High Commissioner for Refugees.
- 2.** The present Convention shall be the effective regional complement in Africa of the 1951 United Nations Convention on the Status of Refugees.

## ARTICLE IX

### *Settlement of disputes*

Any dispute between States signatories to this Convention relating to its interpretation or application, which cannot be settled by other means, shall be referred to the Commission for Mediation, Conciliation and Arbitration of the Organisation of African Unity, at the request of anyone of the Parties to the dispute. ARTICLE X

### *Signature and ratification*

- 1.** This Convention is open for signature and accession by all Member States of the Organisation of African Unity and shall be ratified by signatory States in accordance with their respective constitutional processes. The instruments of ratification shall be deposited with the Administrative Secretary-General of the Organisation of African Unity.
- 2.** The original instrument, done if possible in African languages, and in English and French, all texts being equally authentic, shall be deposited with the Administrative Secretary-General of the Organisation of African Unity.
- 3.** Any independent African State, Member of the Organisation of African Unity, may at any time notify the Administrative Secretary-General of the Organisation of African Unity of its accession to this Convention.

## ARTICLE XI

### *Entry into force*

This Convention shall come into force upon deposit of instruments of ratification by one-third of the Member States of the Organisation of African Unity.

## ARTICLE XII

### *Amendment*

- 1.** This Convention may be amended or revised if any Member State makes a written request to the Administrative Secretary-General to that effect, provided however that the proposed amendment shall not be submitted to the Assembly of Heads of State and Government for consideration until all Members States have been duly notified of it and a period of one year has elapsed. Such an amendment shall not be effective unless approved by at least two-thirds of the Members State Parties to the present Convention.

## ARTICLE XIII

### *Denunciation*

- 1.** Any Member State Party to this Convention may denounce its provisions by a written notification to the Administrative Secretary-General.
- 2.** At the end of one year from the date of such notification, if not withdrawn, the Convention shall cease to apply with respect to the denouncing State.

## ARTICLE XIV

### *Registration*

Upon entry into force of this Convention, the Administrative Secretary-General of the Organisation of African Unity shall register it with the Secretary-General of the United Nations, in accordance with Article 102 of the Charter of the United Nations.

## ARTICLE XV

*Notifications by the Administrative Secretary-General of the Organisation of African Unity*

The Administrative Secretary-General of the Organisation of African Unity shall inform all members of the Organisation-

- (a) of signatures, ratifications and accessions in accordance with Article X;
- (b) of entry into force, in accordance with Article XI;
- (c) of requests for amendments submitted under the terms of Article XII;
- (d) of denunciations, in accordance with Article XIII.

IN WITNESS WHEREOF WE, the Heads of African State and Government, have signed this Convention.

1. Algeria
2. Botswana
3. Burundi
4. Cameroon
5. Central African Republic
6. Chad
7. Congo (Brazzaville)
8. Congo (Kinshasa)
9. Dahomey
10. Equatorial Guinea
11. Ethiopia
12. Gabon
13. Gambia
14. Ghana
15. Guinea
16. Cote D'Ivoire
17. Kenya
18. Lesotho
19. Liberia
20. Libya
21. Madagascar
22. Malawi
23. Mali
24. Mauritania
25. Mauritius



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26. Morocco
27. Niger
28. Nigeria
29. Rwanda
30. Senegal
31. Sierra Leone
32. Somalia
  
33. Sudan
  
34. Swaziland
  
35. Togo
  
36. Tunisia
  
37. Uganda
  
38. United Arab Republic
  
39. United Republic of Tanzania
  
40. Burkina Faso
  
41. Zambia



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## **SUBSIDIARY LEGISLATION**

*No Subsidiary Legislation*