

## COMMUNIQUÉ

The **West Africa Consultative Conference on ‘the Right to a Nationality and Statelessness: Challenges and Opportunities’**, co-organised by Open Society Initiative for West Africa (OSIWA) and the United Nations High Commissioner for Refugees (UNHCR) was held at Ivotel Hotel in Abidjan, Côte d’Ivoire, from 28-30 September 2015.

The Consultative Conference followed the **Ministerial Conference on Statelessness for the Member States of the Economic Community Of West African States (ECOWAS)** held from 23-25 February 2015 in Abidjan, Côte d’Ivoire, in the context of the global 10-year Campaign to End Statelessness, and resulted in the Ministerial Declaration on the eradication of statelessness in the ECOWAS region, referred to as the ‘Abidjan Declaration.’ In this Declaration, approved by ECOWAS Heads of State and Government in Accra, Ghana on 19<sup>th</sup> May 2015, signatory States made important commitments in order to eradicate statelessness in West Africa.

The aim of the Consultative Conference was to review, 6 months after the adoption of the Abidjan Declaration, actions undertaken by States to implement the commitments, to follow up on these, and to discuss future approaches.

The Conference brought together around 80 participants mainly from the West African region, including government representatives, representatives of NHRIs, subject-matter experts, academics, civil society, the media, regional networks and representatives from ECOWAS and the UN system, in particular UNHCR.

Upon reviewing the progress made by States 6 months after the adoption of the Abidjan Declaration, participants welcomed notable achievements, including:

- The official nomination of national focal points for issues relating to statelessness in seven (7) States (commitment 22)
- The development of national action plans in four (4) States, two of which have been approved at the ministerial level (commitment 24)
- The initiation of procedures to accede to the international conventions relating to statelessness in three (3) States (commitments 4 and 14)
- Studies commissioned on statelessness in two (2) States (commitment 1)
- The approval of a draft Protocol on Nationality and the Eradication of Statelessness in Africa by the African Commission on Human and People’s Rights (commitment 5).

However, participants recognized that sustained efforts must be made in order to effectively realize the commitments in the Abidjan Declaration. They particularly noted the absence of statistics pertaining to stateless people in almost all of the ECOWAS Member States. They also regret the current lack of collaboration between governments and civil society in implementing the Declaration.

It is for this reason that the participants make the following recommendations:

### ***On the effective implementation of the Abidjan Declaration***

In reference to commitments 22<sup>1</sup>, 24<sup>2</sup>, and recommendation 29<sup>3</sup>, participants recommend that:

1. States who have not yet done so nominate, and inform through a *note verbale* sent to ECOWAS and UNHCR by 31<sup>st</sup> December 2015, a national focal point for statelessness;
2. States take measures, by 31<sup>st</sup> December 2015, aimed at developing and adopting a national action plan to end statelessness, and to collaborate with UNHCR, National Human Rights Institutions (NHRIs), academics and civil society organizations on the drafting of this plan;
3. States put in place a clear national policy on the eradication of statelessness and a structure tasked with its implementation;
4. States ensure the coordination and synergy between the various State structures tasked with the fight against statelessness;
5. States put in place measures to help finance national structures engaged in the fight against statelessness;
6. ECOWAS and UNHCR draft terms of reference for the national focal points to propose a roadmap for monitoring the implementation of the Abidjan Declaration, and to guide States on the development and content of their national action plans;
7. UNHCR and the Open Society Foundations facilitate in each country forums for dialogue and coordination with civil society on questions of citizenship and

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<sup>1</sup> We commit to designate Focal Point on statelessness matters and to meet regularly under the auspice of ECOWAS and in collaboration with UNHCR, in order to assess progress in the implementation of the recommendation of this Conference.

<sup>2</sup> We undertake to develop and implement national actions plans to end statelessness in accordance with UNHCR's global campaign to end statelessness within 10 years.

<sup>3</sup> Each State should designate a focal point on statelessness to ECOWAS and UNHCR by note verbal. We urge civil society in each State to also designate a coordinator on statelessness.

statelessness, and assist civil society with the development of a national network on nationality and statelessness.

### ***On reforming the Protocol on ECOWAS Citizenship***

In reference to commitment 12<sup>4</sup> and recommendation 10<sup>5</sup> of the Abidjan Declaration, participants recommend that States:

8. Revise the Protocol by:
  - a. allowing all citizens of an ECOWAS Member State to enjoy ECOWAS citizenship, regardless of the manner in which they acquired their nationality (automatically or through a procedure) and without any additional conditions;
  - b. recognizing the principle of dual nationality and allowing all citizens of an ECOWAS Member State who are citizens of another State, regardless of whether that state is an ECOWAS Member State or not, to acquire community citizenship;
  - c. including the right to nationality as a fundamental right of ECOWAS citizens;
  - d. recognizing the ECOWAS Court of Justice's jurisdiction in all matters relating to refusal to grant, or withdrawal of, Member State nationality, given that such a refusal or withdrawal would prevent an individual from enjoying ECOWAS citizenship.

### ***On the process of adopting the African Union's draft protocol on the right to nationality and the eradication of statelessness in Africa***

Participants welcome the adoption of the draft protocol by the African Commission on Human and People's Rights during its July 2015 extraordinary session. In light of the adoption process currently under-way in the other bodies of the African Union, and in relation to commitment 5<sup>6</sup> of the Abidjan Declaration, participants recommend that:

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<sup>4</sup> We call upon ECOWAS to integrate into Community law measures to ensure the eradication of statelessness and to guarantee the right to a nationality for anyone with a relevant link to an ECOWAS State, within the context of relevant treaties, protocols and commitments.

<sup>5</sup> We invite ECOWAS to revise its 1982 Protocol on Citizenship so as to incorporate the right to a nationality; to define ECOWAS' role in ensuring access to citizenship; to guarantee others rights enshrined in Community law, including the right to non-discrimination, democratic participation and due process of law; and finally to provide a common understanding of the rights of nationals of West African states as ECOWAS citizens.

<sup>6</sup> We call upon ECOWAS Member States to support the development and adoption of a Protocol on the Right to Nationality to the African Charter on Human and Peoples' Rights

9. the various relevant actors make contact with State experts who are to participate in meetings of the Special Technical Committee (STC) on legal and judicial affairs that will examine the draft protocol, in order to sensitize them on the important aspects of the draft protocol, preferably one or two months before its first meeting;
10. the national focal points make contact with the designated experts in order to inform them of the commitments contained in the Abidjan Declaration that pertain to the right to nationality and the eradication of statelessness;
11. civil society actors and NHRIs raise awareness among state ministries, departments and agencies working on questions of nationality and statelessness about the essential points of the draft protocol.

### *On data collection related to statelessness*

In relation to the Abidjan Declaration's recommendations 1<sup>7</sup> and 15<sup>8</sup> on the need to improve information and data collection about stateless, participants recommend that:

12. ECOWAS and UNHCR develop standard methodologies to guide studies conducted on statelessness in Member States;
13. ECOWAS encourage Member States to identify as soon as possible stateless persons on their territory, in coordination with the relevant national institutions, UNHCR, civil society and academics. These activities should include the following:
  - a. use of the various relevant national institutions in order to gather data on people who are undocumented (including schools, immigration authorities, legal and paralegal clinics, etc.);
  - b. awareness-raising among the general population to allow those concerned to self-identify as being at risk of statelessness, and to invite them to make contact with legal and paralegal services;

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<sup>7</sup> We recognize the importance and urgency of obtaining concrete information on the causes of statelessness and the number and the profile of stateless persons in ECOWAS Member States, as well as source of statelessness and obstacles to acquisition of nationality by stateless persons in order to design and implement appropriate strategies to address the phenomenon. In this effort, we urge research institutes and universities to actively participate and call upon the international community, in particularly UNHCR, to support us;

<sup>8</sup> We will endeavor to improve our data collection programs, in accordance with the Principles and Recommendations for Population and Housing Censure of the United Nations, in order to systemically identify stateless persons, while respecting the principle of confidentiality and human dignity

- c. inclusion of questions pertaining to documentation and nationality in existing data collection methods, including health indicator studies, household surveys, and the national census;
- d. Commissioning targeted studies to profile those groups most at risk of statelessness and to identify the causes of statelessness.

***On protecting stateless persons and establishing procedures for nationality determination***

In relation to commitments 13<sup>9</sup>, 16<sup>10</sup>, and 18<sup>11</sup>, on the protection of stateless persons and the establishment of procedures for the confirmation or acquisition of nationality, participants recommend that:

- 14. The ECOWAS Commission and ECOWAS Member States establish effective means of inter-State coordination to determine the nationality of those whose nationality is undetermined, particularly of populations living in border zones and nomadic populations;
- 15. States establish nationality determination procedures at the national level for concerned individuals, in order to determine their nationality, to allow them to acquire one or, in the last resort, to grant them the status of stateless person;
- 16. ECOWAS to adopt a directive for the harmonisation of national laws pertaining to nationality;
- 17. Civil society to strengthen its advocacy on the eradication of statelessness, in coordination with groups working on human rights and existing networks.

***On the accession to and implementation of international conventions***

With regards to the implementation of commitments 2<sup>12</sup>, 3<sup>13</sup> and 4<sup>14</sup>, participants recommend that:

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<sup>9</sup> We undertake to take appropriate measures to ensure that affected populations can confirm or acquire a nationality in cases of States succession

<sup>10</sup>We undertake to implement appropriate measures in order to enable stateless persons to obtain a legal status in accordance with the 1954 Convention and international human rights standards, thereby allowing them to live in dignity

<sup>11</sup>Where stateless populations have been identified, we undertake to implement any required law and policy reforms to grant nationality to stateless persons on the basis of criteria such as birth in the territory and long-term residence

<sup>12</sup> We undertake to prevent and reduce statelessness by reforming constitutional, legislative and institutional regimes related to nationality in order to include appropriate safeguards against statelessness, in particular to

18. States, with the support of academics, undertake a review of their nationality laws in light of the 1961 Convention on the Reduction of Statelessness and other international and regional standards;
19. NHRIs and UNHCR sensitize governments and Parliaments on the content of these Conventions and on the manner in which they should be inserted into national law;
20. civil society actors submit regular reports on the implementation of the Conventions to ECOWAS (notably to the Social Affairs Commission and the Office of the President);
21. ECOWAS adopts a directive on the adoption of the Conventions on Statelessness by those Member States who have not yet done so.

### ***On the implementation of the ECOWAS biometric identification cards project***

Participants recommend that:

22. ECOWAS urges States to remove all obstacles to obtaining the biometric identification cards, by facilitating access by their population to identification and nationality documents;
23. States take measures to issue a unique identification number during birth registrations.

### ***On the improvement of nationality identification mechanisms***

In order to implement commitments 7<sup>15</sup>, 8<sup>16</sup> and 9<sup>17</sup>, participants recommend that:

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ensure that every child acquires a nationality at birth and that all foundlings are considered nationals of the State in which they are found

<sup>13</sup> We affirm our commitment to implement, as appropriate, the relevant provisions of the Convention on the Elimination of All Forms of Discrimination against Women and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa and to ensure that men and women have equal rights to acquire, change and retain their nationality and confer nationality to their children;

<sup>14</sup> We invite the member States who have not yet done so to accede as soon as possible to the 1961 Convention on the Reduction of Statelessness and call upon all Member States, with the support of UNHCR, to review their nationality laws and related legislation to bring them into line with the Convention

<sup>15</sup> We undertake to ensure that all individuals entitled to nationality under domestic law are able to acquire documentary proof of their nationality;

24. States use nationality recognition procedures based on witness testimony (*possession d'état*), or other flexible means of nationality acquisition, in order to facilitate access to nationality for all persons with a strong link to the State but who do not have, and cannot obtain, proof of their identity or of their nationality.

Abidjan, 30<sup>th</sup> September 2015, the participants

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<sup>16</sup> In the context of the fight against transnational crime, we undertake to manage civil registration data taking into account both the need to combat identity crimes and to prevent and reduce statelessness, and urge ECOWAS and UNHCR to promote collaboration among Member States for this purpose

<sup>17</sup> We urge relevant ECOWAS institutions to study how migration within West Africa and migration originating from West Africa can lead to situations of statelessness and to propose practical measures , premised upon collaboration with Member States, to facilitate confirmation of nationality of nationals abroad and to promote issuance of identity documentation to nationals abroad