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

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Universal Periodic Review: *4th Cycle, 42nd Session*

GHANA

I. BACKGROUND INFORMATION

Ghana acceded to the *1951 Convention relating to the Status of Refugees* in 1963 and its *1967 Protocol* in 1968 (hereinafter jointly referred to as the *"1951 Convention"*). However, Ghana has not yet acceded to the *1954 Convention relating to the Status of Stateless Persons* (the *"1954 Convention"*) nor the *1961 Convention on the Reduction of Statelessness* (the *"1961 Convention"*). Ghana ratified the *1969 Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa* (the "*OAU Convention"*)[1] in 1975 and is a signatory to, but has not yet ratified, the *African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa* (the "*Kampala Convention"*).[2]

The legal framework for the protection of asylum-seekers and refugees in Ghana is governed by the *1992 Refugee Act*[3], adopted on 30 December 1992. This law reflects the obligations enshrined in the *1951 Convention*, and in the *OAU Convention*. The *1992 Refugee Act* also establishes the Ghana Refugee Board (GRB), whose functions are, *inter alia*, to register, assess and adjudicate asylum applications at first instance, to ensure the provision of adequate facilities, to provide advice and services for the reception and support of refugees in Ghana, and to assist refugees in seeking employment and/or education, including for refugee children.

As of the end of 2021, there were 13,782 Persons of Concern to UNHCR ("PoC") in Ghana. There were 11,898 refugees and 1,884 asylum seekers. Of the total number of PoC, 6,442 are male and 7,340 are female. There are 6,781 that are camp based and 7,001 that live outside the camps, primarily in Accra. Among the refugees, there were 6,956 Ivoirians, 3,476 Togolese, 693 Sudanese, and 2,657 refugees of other nationalities.

The majority of the Ivoirian refugees are hosted in three refugee camps, located in three regions (Ampain Camp in the Western Region, Egyeikrom Camp in the Central Region, and Fetentaa Camp in the Bono Region), while the other Ivorian refugees are self-settled in urban areas and host communities. Several nationalities are hosted in the Krisan camp.

A Comprehensive Solutions Strategy for Ivorian Refugees, which includes the recommendation to implement the cessation clause, was endorsed by the 72nd session of UNHCR's Executive Committee (4 - 8 October 2021). Ghana published its announcement to invoke the cessation clause on 30 June 2022 in the Ghana Gazette on 17 March 2022. The Government, with the support of UNHCR, sensitized the Ivorian refugees and provided the refugees with three options: (1) voluntary repatriation; (2) alternative legal status or (3) to apply for an exemption from the cessation clause.

The Togolese refugees fled from Togo in and about 2005 and generally live in the Volta Region in host communities. They are largely socio-economically integrated. In addition to the Togolese, Ghana hosts other refugees that are in a protracted situation; living in Ghana

[1] Organization of African Unity, *Convention Governing the Specific Aspects of Refugee Problems in Africa*, 10 September 1969, 1001 U.N.T.S. 45, available at: http://www.refworld.org/docid/3ae6b36018.html.
[2] African Union, *African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa ("Kampala Convention")*, 22 October 2009, available at: http://www.refworld.org/docid/4ae572d82.html.
[3] *Ghana: Refugee Law of 1992 [Ghana]*, 27 August 1993, available at: http://www.refworld.org/docid/3ae6b4e51c.html.

more than five years and without the option to return to their country of origin. UNHCR wishes to emphasize that the search for durable solutions is a priority as is the importance of continuing to provide international protection to refugees.

II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

Linked to 3rd cycle UPR recommendation no. 146.200 "Strengthen strategies to guarantee the protection of the rights of migrants and refugees in order to ensure their access to justice, education and health, regardless of their status"

UNHCR welcomes the inclusion of refugees in access to the National Health Insurance Scheme and inclusion of refugees in free primary and secondary education.

In line with the Global Compact on Refugees (particularly Section 3.4 on Local Integration) and the Abidjan Joint Declaration on the Updated Roadmap for Comprehensive Solutions for Ivorian Refugees dated 7 September 2021: UNHCR welcomes the agreement of the Government to provide indefinite residence permits for those Ivorian refugees opting for alternative legal status in the context of the Comprehensive Solutions Strategy for Ivorian Refugees. This immigration status will provide a durable solution for those Ivorian refugees who decide to remain in Ghana after the cessation. It includes the right to work in Ghana.

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Challenges linked to outstanding 2nd cycle UPR recommendations

Issue 1: Local integration and durable solutions for refugees

Linked to 2nd cycle UPR recommendation no. 125.57: "Strengthen legal advice and assistance for people in need (Germany)."

As a solution to the protracted Togolese refugee situation, it would be a durable solution to provide access to alternative legal status ("ALS"); specifically indefinite residence permits. They are already *de facto* integrated and similar to the Ivorians, a durable solution can be found if Ghana offers ALS together with waiving certain requirements that refugees are unable to satisfy (unlike other foreigners immigrating to Ghana). The majority of the Togolese have been present in Ghana for more than 15 years and are economically and socially integrated into their communities. What remains pending is the legal aspect of integration.

Recommendation:
UNHCR recommends that the Government of Ghana:

a) Offer and provide indefinite residence permits to the Togolese as a durable solution for their refugee situation.

Challenges linked to outstanding 3rd cycle UPR recommendations

Issue 2: Ratification of the *Kampala Convention*

Linked to the 3rd cycle UPR recommendation no. 146.18 "Speed up the ratification procedure of the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention) (Togo)" **and UPR recommendation no. 146.20 "**Ratify the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (the Kampala Convention) (Uganda)"

Inter-ethnic conflicts and violence due to disputes over natural resources and chieftaincy are the main causes of internal displacement in Ghana. Displacement has also occurred due to environmental causes, e.g. flooding. However, other than those that were displaced across the border to Togo due to chieftainship issues and for whom solutions are being sought in Togo, the other situations are temporary and only requiring relief support for the short period

of displacement. Global warming may cause more significant displacements in the future through both natural disasters as well as conflicts over resources.

Therefore, there is value-added in ratifying the Kampala Convention to manage both the prevention and response aspects of displacement. Ghana's only framework to specifically deal with displacement is the regular NADMO procedures for disaster-management. We wish to recall that the *Kampala Convention* is a legally binding regional instrument ensuring protection and assistance of IDPs within the country. It contains an explicit provision on equality and non-discrimination, and it specifically obliges States Parties to protect women and children from gender-based violence, including sexual slavery and trafficking in persons. Ghana has signed the *Kampala Convention*, but it has not been ratified by the Parliament as yet.

Recommendation:
UNHCR recommends that the Government of Ghana:

a) Undertake effective measures to swiftly ratify the *Kampala Convention*.

Additional protection challenges

Issue 3: Ratification of the *Statelessness Conventions*

Linked to 3rd cycle UPR recommendation no. **147.4:** "Accede to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness, in accordance with the commitments made during the Ministerial Conference held in Abidjan on 23 February 2015 (Côte d'Ivoire)."

Ghana made a commitment to accede to the Conventions during a Ministerial Conference in Abidjan on 23 February 2015 which resulted in the Abidjan Declaration of ECOWAS Member States on Eradication of Statelessness. Ghana made a pledge during the High-Level Segment on Statelessness in October 2019 to accede to the two Statelessness Conventions by the end of 2021. Accession to the Conventions is part of the strategy in the Ministry of the Interior's National Migration Policy for Ghana of April 2016.

Ghana participated in an ECOWAS-CEMAC-UNHCR Regional Stock-Taking Event from 14 to 15 December 2020. Further, high-level representatives from the Ministry of Foreign Affairs and Regional Integration (MoFARI) and the Ministry of the Interior (MoI) attended another ECOWAS- UNHCR Regional Meeting of Statelessness Focal Points for West Africa and Central Africa in Lome, Togo from 2 to 4 November 2021.

The matter of the accession to the conventions remains seized at the Cabinet level without forward movement to the Parliament and has been pending for over 5 years.

Recommendations:
UNHCR recommends that the Government of Ghana:

a) Accede to the *1954 Convention* and the *1961 Convention*;
b) Collect relevant data on stateless persons and groups at risk of statelessness;
c) Review the nationality legislation with a view to bringing it into compliance with the international standards on prevention and reduction of statelessness;
d) Review and update the draft *National Action Plan to End Statelessness*; and
e) Put in place a legal framework for the protection of stateless persons.

Issue 4: *Refugee Act* revisions

UNHCR wishes to note that the *1992 Refugee Act* does not adequately reflect all the minimal asylum procedural safeguards envisioned in the refugee conventions as well as in the evolving good practices by states.

Discussions between UNHCR and the GRB on the need for the amendment of the *1992 Refugee Act* in order to bring it in conformity with international refugee law and standards have been ongoing since 2013. However, to date no significant steps have been taken to

amend the *1992 Refugee Act*.

Recommendations:
UNHCR recommends that the Government of Ghana:

a) Ensure a comprehensive review of the *1992 Refugee Law*, in particular with the insertion of specific provisions relating to asylum procedural safeguards for asylum-seekers; and
b) Expedite the drafting process of the revised national legal refugee framework with the technical support of UNHCR and enact the *Refugee Act* that is fully in line with international refugee law standards.

Issue 5: <u>Self-employment restrictions</u>

The Ghana Investment Promotion Center Act (GIPCA) 4 is an Act to promote and encourage investments in Ghana. GIPC sets forth various activities which foreigners cannot invest or participate in, inter alia, the sale of goods or provision of services in a market, petty trading or hawking or selling of goods in a stall at any place."5 The act also provides for penalties for the violation of the Act including financial penalties, as well as, inter alia, suspending or cancelling the registration of an enterprise.6 Further, it sets the minimum foreign capital levels for foreigners to engage in a wholly owned business at $500,000 and a joint business enterprise with a Ghanaian at $200,000.

UNHCR wishes to note that GIPCA does not distinguish between refugees and other foreigners. Accordingly, GIPCA has the effect of rendering refugees' private enterprises illegal. Those that do engage in these businesses are in a precarious situation. Their businesses cannot be properly registered, and they are unable to access financial products for business.

States Parties, have an obligation pursuant to the International Convenant on Economic, Social and Cultural Rights (ICESCR) [7] to provide the minimum essential of access to work to those persons within their jurisdiction. See, Articles 6 and 7. Further, States must take particular account of the need to eliminate discrimination in access to employment. It must ensure equal access to economic resources, particularly for disadvantaged and marginalized individuals and groups, and should respect and protect self-employment that enables workers and their families to enjoy an adequate standard of living as stipulated in article 7 (a) (ii) of the Covenant.[8]

As refugees are a disadvantaged and marginalized group, who are often dependent on engaging in activities currently reserved for Ghanaians for their survival and dignity, Section 27 of the Ghana Investment Promotion Center Act is not in line with the minimum essential level of protection to refugees. These restrictions also run counter to letter and spirit of the New York Declaration and the Global Compact and Refugees.

UNHCR recommends that the Government of Ghana:

a) Expressly provide a for the exemption of refugees from the provisions of the Ghana Investment Promotion Center Act in order to promote the socio-economic inclusion of and protection of refugees in Ghana.

UNHCR Representation in Ghana
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[4] Ghana Investment Promotion Center Act https://www.gis.gov.gh/PDFs/GIPC%20Act%202013.pdf
[5] Section 27(1)(a) of the Ghana Investment Promotion Center Act.
[6] Section 41 of the Ghana Investment Promotion Center Act
[7] International Covenant on Economic, Social and Cultural Rights | OHCHR
[8] UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 18: The Right to Work (Art. 6 of the Covenant)*, 6 February 2006, E/C.12/GC/18, available at: https://www.refworld.org/docid/4415453b4.html at Para. 44 [accessed 9 June 2022]