

OAU CONVENTION GOVERNING THE SPECIFIC ASPECTS OF REFUGEE PROBLEMS IN AFRICAⁱ

*Adopted on 10 September 1969 by the Assembly of Heads of State and Government.
CAB/LEG/24.3. It entered into force on 20 June 1974.*

PREAMBLE

We, the Heads of State and Government, assembled in the city of Addis Ababa,

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 an 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 fomenting subversion from outside,
5. **Determined** that the activities of such subversive elements should be discouraged, in accordance with the Declaration on the Problems 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 2312 (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 desire to establish common standards for their treatment,
10. **Recalling** Resolutions 26 and 104 of the OAU Assemblies of Heads of State 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 measures recommended by the present Convention to solve the problem of refugees in Africa 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 1

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, is 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 a 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 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 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 OAU shall use their best endeavours consistent with their respective legislation 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 granting 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 1, 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 OAU, 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 re-settlement 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 OAU.

2. Signatory States undertake to prohibit refugees residing in their respective territories from attacking any State Member of the OAU, by any activity likely 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 the country of origin, shall make adequate arrangements for the safe return of refugees who request repatriation.
3. The country of origin, on receiving back refugees, shall facilitate their re-settlement 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 penalised 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 OAU, 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 intergovernmental 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 State 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 may hereafter 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 any one 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

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 Member 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 Member States 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 WITH THE UNITED NATIONS**

Upon entry into force of this Convention, the Administrative Secretary-General of the OAU 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.***

ⁱ Source: Web site of the African Commission on Human and Peoples' Rights, available at <http://www.achpr.org>.