

Regional Conference on Refugee Protection and International Migration in West Africa

Dakar, Senegal, 13-14 November 2008

Summary Report

The Regional Conference on Refugee Protection and International Migration in West Africa took place in Dakar, Senegal on 13 and 14 November 2008. It is the second of four regional conferences¹ UNHCR has been organizing under a two year EC-funded project to sensitize key stakeholders in different regions to the protection challenges of mixed migration and to promote the 10 Point Plan of Action as a framework for the development of a “protection sensitive” migration strategy.²

The principal objective of the conference in Dakar was to enhance the protection response to mixed migration in West Africa through fuller utilization of existing regional frameworks and processes.³ The three topics at the centre of the conference were: (i) the implementation of the ECOWAS free movement protocols⁴, including in furtherance of local integration of refugees in the region; (ii) the enhancement of government capacities to identify and protect refugees; and (iii) possible improvements in the regional response to human trafficking.

In plenary and in working groups, participants acknowledged achievements and identified outstanding challenges in the implementation of the ECOWAS free movement protocols. It was recognized that a more harmonized implementation of the protocols, in conjunction with established principles of refugee law, promises not only better management of migratory movements within the region but can also enhance the protection space for those in need of it. Combined with an increased emphasis on the creation of livelihood opportunities, the framework may also diminish irregular onward migration from the sub region.

¹ The first of these regional conferences was held in Sana'a, Yemen in May 2008 and focused on the Gulf of Aden situation. Further information on the conference is available at <http://www.unhcr.org/protect/48722c992.html>.

² See information note on the project at <http://www.unhcr.org/protect/PROTECTION/483bca3a2.pdf>.

³ The concept note and all other conference documentation are available at <http://www.unhcr.org/protect/483d0fb04.html>.

⁴ For the purpose of this report, when cited alone, the *Protocol relating to Free Movement of Persons, Residence and Establishment* is referred to in the singular, i.e. the “Protocol”. When the Protocol is cited in connection with the four supplementary protocols described in footnote 8, the plural “protocols” is used to describe all five documents (i.e. the Protocol and four supplementary protocols).

The Conference was convened jointly by UNHCR, the International Organization for Migration (IOM) and the Economic Community Of West African States (ECOWAS), in cooperation with the Office of the High Commissioner for Human Rights (OHCHR).

Apart from the European Commission, the US Department of State, Bureau for Population, Refugees and Migration (BPRM) and the *Organisation Internationale de la Francophonie* (OIF) provided funding.

The meeting brought together over 200 representatives of the fifteen ECOWAS Member States as well as regional organizations including the European Union, the African Union, the East African Community, various donors, international agencies, local and international non-governmental organizations and refugees.

Participants discussed the key findings of the Conference background paper “West Africa as a Migration and Protection Area”⁵ and developed concrete recommendations on how best to improve cross-regional cooperation on mixed migration on the basis of ECOWAS free movement protocols and Common Approach on Migration, UNHCR’s 10-Point Plan of Action⁶ and IOM’s Migration Dialogue for West Africa (MIDWA).⁷

This report contains a summary of the key discussions and recommendations of the Conference. It is structured along the lines of the topics considered by the eight working groups. The conference agenda and list of participants are annexed.

1. Solutions through free movement of ECOWAS citizens within the ECOWAS region

The ECOWAS protocols entitle ECOWAS citizens to visa-free entry into all ECOWAS countries if in possession of a valid travel document. They are also entitled to work and reside in those countries provided they have a valid travel document and international health certificate and are not otherwise inadmissible. These entitlements apply both to migrants and refugees from the region.

Right to visa-free entry

The right to visa-free entry was part of the first phase of the implementation of the protocols. It has been transposed into the national laws of all ECOWAS Member States and is fully implemented. Remaining problems relate to under-resourced immigration ministries and border control departments, the absence of systematic entry and exit recording systems and widespread corruption by border officials (for further details and recommendations see chapter on border management).

⁵ Florianne Charrière et Marion Frésia: L’Afrique de l’ouest comme espace migratoire et espace de protection, novembre 2008.

⁶ The 10-Point Plan of Action is available at <http://www.unhcr.org/protect/PROTECTION/4742a30b4.pdf>.

⁷ The Migration Dialogue for West Africa (MIDWA) process, initiated by ECOWAS and IOM, was specifically designed to accelerate the regional integration process and encourage ECOWAS Member States to discuss common migration issues and concerns in a regional context.

Right of Residence and Establishment

The right to residence and income-earning employment and the right to establish enterprises in ECOWAS Member States are part of implementation phases II and III respectively. Neither phase II nor phase III has yet been completed.

Participants deplored that the full freedom of movement in the sub-region has not yet been fully realized. They underlined that the impediments to the implementation of residence and work entitlements are not the absence of appropriate laws but the relatively lesser challenge of harmonizing domestic laws with the norms established in the regional protocols and the slow implementation of the second and third phases of those protocols.

The procedure for obtaining residence permits still depends mainly on national laws and requirements are often demanding. Applicants who are citizens of ECOWAS Member States must at a minimum a) have a valid identity card, b) prove that they can cover their needs and those of their family, c) provide a birth certificate and a police record check, d) leave a repatriation deposit and sometimes even a medical certificate. Additionally, all ECOWAS states appear to levy fees with rates varying between countries.

Participants discussed how to redress these impediments and mentioned as a good practice example the national committees which monitor the implementation of the protocols in nine ECOWAS Member States.

The importance of the ECOWAS protocols for the local integration

Participants mentioned that the 1979 Protocol and the four supplementary protocols⁸ provide refugees who are ECOWAS citizens with the right to continue to reside and work in their host country after their refugee status ceased. A fuller implementation of the protocols would enable all refugees who do not want to return home to locally integrate in the sub-region.

A good practice example in this respect was the multipartite agreement which was signed in July 2007 between Liberia, Sierra Leone, Nigeria, ECOWAS and UNHCR, as well as UNHCR's recently developed framework for the local integration of Sierra Leonean and Liberian refugees in West Africa. According to this Agreement, Liberia and Sierra Leone have committed themselves to issue national passports to citizens who are registered as refugees in Nigeria; Nigeria to enable them to access the residence entitlements under the ECOWAS Protocols; and UNHCR to pay for the cost of the issuance of passport and residence permit.

⁸ 1985 Supplementary Protocol A/SP.1/7/85 on the Code of Conduct for the implementation of the Protocol on Free Movement of Persons, the Right of Residence and Establishment; 1986 Supplementary Protocol A/SP.1/7/86 on the Second Phase (Right of Residence) of the Protocol on Free Movement of Persons, the Right of Residence and Establishment; 1989 Supplementary Protocol A/SP.1/6/89 amending and complementing the provisions of the Third Phase (Right of Establishment) of the Protocol on Free Movement of Persons, the Right of Residence and Establishment; 1990 Supplementary Protocol A/SP.2/5/90 on the implementation of the Third Phase (Right of Establishment) of the Protocol on Free Movement of Persons, the Right of Residence and Establishment.

The self-reliance strategy drawn by the National Refugee Agency (NaCSA) of Sierra Leone for Liberian refugees was also mentioned as a positive step towards the local integration of refugees from ECOWAS Member States.

Recommendations

At regional level

- ECOWAS Commission, with the support of relevant partners, could undertake a study of relevant ECOWAS legislation with a view to identifying gaps requiring clarification, and exploring the possibility of supplementary legislation:
 - Establishing a standard duration for residence entitlements and presumption of renewability.
 - Providing common standards on work and residence entitlement procedures and applicable fees.
- ECOWAS institutions, with the support of relevant actors should conduct broad-based and intensive information campaigns – including sensitization and awareness-raising campaigns - regarding the provisions of the ECOWAS protocols. These campaigns need to target Governments, responsible officials and the general public.
- ECOWAS institutions should be reinforced to better monitor States' performance with regard to the implementation of the ECOWAS protocols.
- ECOWAS Commission in cooperation with Member States and other partners should undertake a country-by-country review to assess the level of implementation of the protocols and to identify the remaining gaps.
- ECOWAS Commission should specifically promote the use of the protocols to facilitate the local integration of refugees.

At national level

- ECOWAS Member States should harmonize their domestic laws with provisions of the ECOWAS protocols.
- ECOWAS Member States which have not yet done so should consider following practices existing in some states and establish monitoring mechanisms to assess the enforcement of ECOWAS protocols.
- ECOWAS Member States, with the support of relevant partners, should carry out awareness training and capacity-building for officials responsible for implementing the protocols.

- ECOWAS Member States are encouraged to refer questions on the interpretation of rights and entitlements under the ECOWAS protocols to the ECOWAS Community Court of Justice.
- ECOWAS Member States are encouraged to apply the protocols to refugees who are ECOWAS citizens staying in an ECOWAS country in line with ECOWAS Memorandum on Equality of Treatment.⁹

2. Enhancing local capacities for refugee status determination and addressing secondary movements of asylum seekers and refugees

In all ECOWAS Member States, governments are responsible for the refugee status determination (RSD). Most Member States elaborated national refugee laws and mechanisms for the determination of claims. Participants acknowledged these achievements. They made suggestions on how UNHCR and other partners could assist governments in establishing fair and efficient refugee status determination procedures.

First instance asylum procedure

Registration

Participants observed that UNHCR still plays a central role in the registration process in many countries of the region, and encouraged states to take full ownership of the registration process as a component of the RSD functions.

Participants discussed the utility of partnerships with civil society in providing legal counsel to asylum seekers and refugees and called upon ECOWAS Member States to increase partnerships with, inter alia, universities and bar associations.

Profile of the members of national eligibility commissions

Some participants noted that the Government officials responsible for endorsing the RSD recommendations, whether at the first instance or at the appeal level, are often high ranking civil servants of different professional backgrounds. Due to their heavy time schedule, the national eligibility commissions in some countries have difficulties to organize regular RSD sessions. Participants called for a better interplay between the working and political levels and suggested structural changes: high ranking government officials should only be requested to endorse appeal decisions, while the responsibility for first instance decisions would generally rest with eligibility officers.

Participants repeatedly emphasized the importance of appropriate training and requested UNHCR's support in carrying out routine formal and on-the-job trainings in international human rights and refugee law and RSD procedural standards, in particular in countries that have not fully discharged their RSD functions yet.

⁹ Memorandum on Equality of Treatment for Refugees with other Citizens of Member States of ECOWAS in the Exercise of Free Movement, Right of Residence and Establishment, Meeting of the Committee on Trade, Customs, Immigration, Accra, 25-27 September 2007.

Quality of first instance RSD decisions

Another topic discussed was the quality of first instance RSD decisions and how it could be improved. Two issues were particularly mentioned:

Participants underscored the importance of providing unsuccessful applicants with the reasons for the rejection of their claim to permit them to assess the necessity to lodge and to adequately prepare an appeal application. The notification of negative decision also enables the government officials responsible for supervision and endorsement of the decisions to ensure that all substantive and procedural issues have been adequately addressed.

Secondly, attention was drawn to the fact that asylum applications are systematically rejected when the applicants have moved through other countries before. These rejections do not take into consideration whether their movement was invoked by protection reasons and whether the applicants were able to return to the first country of asylum. A more differentiated approach is necessary for these cases.

The review of the quality of first instance decisions is of particular importance whenever applicants whose claims are rejected in first instance are at risk of expulsion by the authorities of their host country before they have the opportunity to lodge an appeal application.

Participants mentioned the lack of reliable data on secondary or onward movements of refugees and asylum seekers in the West Africa region and the need for improved information-sharing mechanisms between asylum countries, in accordance with standard data protection principles.

Independent appeal

Participants acknowledged that most ECOWAS Member States have put in place appeal procedures. They noted, however, the lack of independence of appeal bodies in some countries. Participants also raised some concerns that, in some cases, the appeal review of RSD decisions is undertaken by eligibility officers who decided the claim in first instance. This may undermine the fairness of the appeal process.

Issuance of documents

Identity documents

Participants mentioned as problematic that the period for which identity documents for asylum-seekers are issued is often not sufficient to cover the assessment period of their applications.

They also noted that identity cards issued by ECOWAS Member States to recognized refugees are not systematically known and recognized by all authorities within the same country. This could undermine the protection of asylum seekers and refugees and increases the risk of detention and *refoulement*.

The lack of broadly recognized documents also creates practical constraints, such as the difficulties for refugees to open a bank account, to receive a parcel or money orders, to change civil status. To overcome these difficulties, many refugees feel forced to buy forged identity documents.

Travel documents

Participants mentioned that asylum countries do not systematically provide refugees with Convention Travel Documents (CTD) allowing them to travel abroad, although this is an obligation State parties generally have according to Article 28 of the 1951 Convention. In some countries of the region, refugees who want to obtain CTDs have to explain the reasons for their travel and produce an invitation letter as well as a return ticket. These heavy requirements often prompt people to leave irregularly.

Recommendations

At regional level

- Information-sharing mechanisms between ECOWAS Member States should be improved in order to better manage secondary movements in the sub-region.
- A regional network of RSD experts could be established and RSD-related information-sharing mechanisms should be developed throughout the region. The International Association of Refugee Law Judges (IARLJ)¹⁰ may offer assistance in this respect.

At national level

- The capacity of States to discharge RSD functions should be reinforced with the support of UNHCR, and possibly the IARLJ, to ensure all asylum seekers benefit from consistent standards of due process. The efficiency of the current structure of the asylum institutions should be reviewed and the quality of the decisions improved. Appeal procedures should be fair and independent.
- ECOWAS Member States should issue identity cards to all recognized refugees and ensure that these documents are recognized by all authorities of the asylum country.
- ECOWAS Member States are encouraged to simplify the issuance of CTDs to recognized refugees. In particular those who wish to travel within the ECOWAS region.
- Partnerships with civil society (e.g. universities, bar associations) in providing legal counsel should be increased.

¹⁰ Information on the IARLJ is available at <http://www.iarlj.org/general>.

3. Combating trafficking and implementing the Ouagadougou Plan of Action

Most of the ECOWAS Member States have ratified the 2000 *United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons* and many of them have adopted a national legislation on counter-trafficking.

In December 2001, the ECOWAS issued a Political Declaration against Trafficking in Persons and adopted a Regional Plan of Action in the Fight against Trafficking in Persons. This initiative required ECOWAS Member States to implement specific measures to improve their capacities in relation to counter-trafficking, including the criminalization of trafficking in persons, the protection of and assistance to victims, research and awareness raising, the creation of specialized anti-trafficking units, enhanced data collection mechanisms and the establishment of national task forces. In addition, it called for enhanced cooperation among its Member States.

In July 2006, ECOWAS joined forces with the Economic Community of Central African States (ECCAS) to further develop inter-regional cooperation and offer tools to governments in Western and Central Africa regions to enhance their response to human trafficking.

These various legal instruments, together with the 2006 *Ouagadougou Action Plan to Combat Trafficking in Human Beings, especially Women and Children*, endorsed by both the African Union and the European Union set out a variety of concrete anti-trafficking measures and commit states to activities ranging from awareness raising to cooperation in criminal prosecution.

Participants acknowledged the challenges of combating trafficking and protecting victims, and discussed how governments in the region could enhance their efforts to reach a more vigorous implementation of the Ouagadougou Action Plan and to build a more robust and reliable regional response to human trafficking.

Inter-state cooperation was identified as a key element to improve the regional response to human trafficking and participants called upon ECOWAS Member States to enhance cooperation among themselves and with civil society, so as to improve regional responses to trafficking and ensuring protection to victims of trafficking.

They mentioned as a good practice example, the cross-border cooperation on the protection of victims of trafficking in Senegal, involving seven ECOWAS Member States (Senegal, Mali, Burkina Faso, Niger, Cote d'Ivoire, Guinea and Guinea-Bissau; Togo and Nigeria joining soon). Participants also welcomed bilateral cooperation agreements on the repatriation of victims of trafficking and prosecution of traffickers between Cote d'Ivoire and Mali; Benin and Gabon; Ghana, Togo, Benin and Nigeria.

Initiatives supporting such agreements include multidisciplinary cooperation and networking for law enforcement, judiciary, social protection officers and the civil society.

In this framework, IOM strives to create a coordinated network to support the operationalization of said bilateral cooperation agreements, through training and dissemination of best practices.

Identification of victims of trafficking

Participants discussed the difficulties of the identification of victims of trafficking, in particular in a mixed migration context, where trafficked persons are routinely identified from a pool of migrants that fall into a range of legal and practical categories, including irregular migrants, smuggled migrants, asylum seekers, unaccompanied migrant children, migrants with special needs - none of which are mutually exclusive.

For state law enforcement agencies, the identification of a trafficked person may have criminal justice implications. For state and non-state service providers, identification may determine the type of assistance that can be made available, and could have financial implications as well. For the trafficked person, identification may make the difference and enable access to a tailor-made protection scheme whereas non-identification may lead to detention or deportation.

In light of these challenges, participants discussed how governments in the region could increase capacity among national and regional stakeholders to improve identification and protection of trafficked persons, while strengthening cross-border data collection and sharing, and victim protection mechanisms.

The 2007 IOM-led regional seminars on assistance to victims of trafficking in West Africa were mentioned by participants as good practice example.

Child trafficking

Participants expressed serious concerns about the fact that children are especially at risk of being trafficked due to the greater vulnerability inherent in their dependency. They called for anti-trafficking programmes with a child focus in West African countries.

Participants mentioned as good practice examples the national campaigns against child trafficking and strengthening legislation on counter-trafficking and reintegration of victims that were launched by six countries in the region (Benin, Mali, Togo, Cote d'Ivoire, Gambia and Liberia). It was also noted that a much greater focus needed to be on inhibiting and preventing the demand for the products, whether goods or services, of trafficked labour.

Refugee victims of trafficking

Participants discussed the specific situation of refugees who are vulnerable targets for traffickers. Displacement and vulnerability linked to persecution and conflicts put refugees at greater risk of exploitation and abuse, as was pointed out in the background paper.

Participants deplored the lack of attention paid to this crucial issue and called upon ECOWAS Member States, in cooperation with UNHCR, to ensure that refugees, asylum-seekers, and other persons of concern are not victimized twice through trafficking.

Participants also pointed out that individuals who have been trafficked and who fear being subjected to persecution upon return to their country of origin, or individuals who fear being trafficked, may qualify for refugee status and receive the corresponding international protection. More attention is needed, including from UNHCR, to ensure that such international protection needs are identified and addressed.

Prosecution of traffickers

The prosecution of traffickers was identified by participants as a major challenge in the West Africa region. The rates of arrest and prosecution for trafficking-related offences remain very low in relation to the size of the problem. According to recent statistics, approximately 6,000 trafficking incidents are successfully prosecuted globally out of the estimated 600,000 to 4 million people trafficked every year. The reluctance of victims of trafficking to seek assistance for various reasons (e.g. post-traumatic stress disorder, fear of being compelled to testify against the trafficker, difficulty in producing material evidence against traffickers, etc.), is one of the main obstacles to a successful counter-trafficking legal framework aimed at the identification and protection of victims and the prosecution of traffickers.

Participants emphasized the need for specific anti-trafficking criminal legislation, including sentencing legislation, and legislation which encourages trafficked persons to seek compensation for the harm suffered.

Participants further urged states to integrate operational efforts to prevent trafficking in persons, protect victims of trafficking and prosecute traffickers. The UNODC program for reinforcing the capacity of the criminal justice systems to counter trafficking in North and West Africa was mentioned as a positive initiative.

Recommendations

Recognizing the difficulties in identification and protection of victims of trafficking in the context of mixed migration movements, participants agreed on the following recommendations to implement the Ouagadougou Plan of Action:

At regional level

- To standardize data collection and analytical tools and to set up information sharing mechanisms between the relevant stakeholders across borders.
- To increase the number of participants from ECOWAS Member States in the Annual Review Meeting on the implementation of the ECOWAS Plan of Action against Trafficking.

At national level

- ECOWAS Member States are called upon to translate international and regional legal obligations into national legislation, and to establish monitoring mechanisms to assess their enforcement.
- ECOWAS Member States, with the support of relevant partners, are encouraged to establish migration information centres, and to carry out awareness-raising and sensitization campaigns so as to enable potential migrants make informed migration decisions.
- ECOWAS Member States, in cooperation with key actors (including private sector actors, medical and educational service providers, religious communities and migrant communities), are encouraged to improve the protection of and assistance to victims of trafficking, through enhanced identification, referral and support mechanisms, including re/integration programmes that offer opportunities for trafficked persons to apply for and receive compensation for the harm they suffered.
- ECOWAS Member States, with the support of relevant partners, are encouraged to create an early alert mechanism for unaccompanied minors and separated children which would be triggered upon border crossing and throughout transit.
- ECOWAS Member States could consider the deployment of multifunctional teams to determine a solution in line with the best interest of the child.
- ECOWAS Member States are encouraged to seek the assistance of IOM in the identification of trafficked persons, and to build capacity among key stakeholders to identify and assist victims.
- ECOWAS Member States are encouraged to seek the assistance of UNHCR in the identification of international protection needs of victims of trafficking.

4. Enhancing Border Management while Ensuring Protection

Participants examined avenues to address the challenges to human rights and refugee protection at borders which the conference background study identified. They examined how the freedom of movement rights for ECOWAS citizens could be better implemented at borders, and interstate cooperation in border areas improved.

Participants also provided suggestions on how, more generally, protection-sensitive border systems could be established. Knowledge of the content of the ECOWAS protocols and harmonization of relevant domestic laws were considered by most participants to be conditions precedent to the broadly agreed goal of dismantling internal borders.

Participants acknowledged that border crossing within the ECOWAS region is easier for ECOWAS citizens. They also appreciated that *refoulement* rarely occurs. Participants, nevertheless, agreed that the background study has identified relevant gaps in the implementation of the ECOWAS protocols and human rights protection.

Some immigration officers and ECOWAS citizens appear to be unaware that ECOWAS nationals holding valid documents, such as passports or travel certificates, can enter any ECOWAS country freely. The lack of knowledge of the ECOWAS protocol provisions partly explains the uneven level of implementation of the protocols throughout the region.

In addition, many reports confirm that border crossings are still subject to levies of informal taxes by border agents trying to ensure the daily operation of their service or to supplement their sometimes low wages. Although working conditions for border personnel are difficult, participants felt that it did not justify the corruption and extortion known to persist in many border areas.

Participants emphasized the need that all actors involved (immigration, police, security but also civil society, refugees and migrants) are fully aware of the ECOWAS protocols and their interaction with the international refugee regime. They mentioned as a good practice example the four workshops on “Protection and Mixed Migration” jointly organized by IOM and UNHCR in 2008 in Angola, sensitizing nearly 200 immigration, border and law enforcement officials to the challenges of mixed migration and the necessity of a humane handling of migration flows.

Some participants pointed out that bilateral agreements concluded between EU countries and ECOWAS states emphasizing control of irregular migration could prove as impediments to free movement within the ECOWAS area. Other participants contended that such agreements do not necessarily reflect EU policy which favours free circulation within ECOWAS but combined with better migration management and stepped up control at external (i.e. ECOWAS perimeter) borders.

Recommendations

At regional level

- ECOWAS institutions are encouraged to expand the monitoring of the implementation of the protocols through, for example, replication of the existing pilot monitoring project; and to ensure that monitoring actors reflect the broad range of interests in the protocols – e.g. security agencies, Government ministries, regional actors, humanitarian actors and civil society.
- ECOWAS institutions, with the support of relevant partners, could establish a regional training centre for training officials responsible for the enforcement of the ECOWAS protocols. The specialized training should be ongoing and thought should be given to the possibility of using existing regional structures such as the Kofi Annan Training Centre for Peacekeeping in Accra.

At national level

- ECOWAS Member States are encouraged to incorporate international human rights guarantees into national and regional migration management policies.
- ECOWAS Member States could facilitate border crossings of ECOWAS citizens, including through systematic issuance of National ECOWAS passports, the establishment of counters for ECOWAS citizens at border points and the adoption of common entrance and residence visas for non-ECOWAS citizens.
- ECOWAS Member States are encouraged to enhance capacities and improve working conditions for border personnel (through regular payment of salary, increased dialogue with border guards, training and provision of adequate equipment), but also prosecute acts of corruption by border personnel who impede the application of ECOWAS Protocols.
- ECOWAS Member States, corporate bodies and individuals could refer cases of grave violations of the free movement provisions by other ECOWAS Member States to the ECOWAS Community Court of Justice.

5. Addressing challenges to Human Rights protection

Participants agreed that migrants and refugees, especially when they travel irregularly, are particularly vulnerable and exposed to human rights violations and abuses. They are often victims of serious discriminations throughout their journeys and are subject to numerous risks linked to migration such as human trafficking, organized crime, etc. This debate echoed some of the points of the discussions on protection-sensitive entry points (see chapter 4).

Participants stressed that the management of mixed migration requires a 'comprehensive but differentiated' approach that would safeguard the legitimate access to asylum, the protection of refugees, and the identification and protection of victims of trafficking, while also ensuring effective respect for human rights of all other individuals.

Participants welcomed the ratification by the majority of the ECOWAS Member States of the *UN Convention on the Protection of the Rights of All Migrant Workers and Members of their Families* and called upon them to incorporate its provisions in their national legislation and to reinforce the control mechanisms at national and regional levels. They noted that deficits rather existed on the implementation level.

Universal Periodical Review (UPR), a monitoring mechanism established by the UN Human Rights Council¹¹ was recognized as an essential instrument of monitoring and

¹¹ See UN General Assembly resolution 60/251 of 15 March 2006.

dialogue with States so that they abide by their international obligations especially with regard to the migration policies.

Recommendations

Participants reaffirmed that human rights should be enjoyed by all people without discrimination and made the following suggestions:

At regional level

- Regional cooperation on human rights protection among all stakeholders implicated in migration management policies and migrants' issues should be reinforced.
- OHCHR, together with relevant partners, should enhance its advocacy efforts to encourage the ratification of the *Convention on the Protection of the Rights of all Migrant Workers and Members of their Families* by not only those ECOWAS Member States which have not yet done so but also those of western European countries which are destination countries.

At national level

- ECOWAS Member States are called upon to ratify international human rights law instruments and translate their international obligations into national legislation.
- ECOWAS Member States should strengthen awareness of human rights of their law enforcement mechanisms, including through training in human rights law for law enforcement officials.
- ECOWAS Member States are called upon to establish or reinforce independent National Human Rights Institutions based on the Paris principles.
- ECOWAS Member States, corporate bodies, civil society and individuals could refer grave cases of human rights violations by other ECOWAS Member States to the ECOWAS Community Court of Justice.

6. Options for migrants who are not citizens of ECOWAS countries

Participants pointed out to the particular challenge of finding appropriate solutions for migrants from non-ECOWAS countries to whom the ECOWAS entitlements do not apply. Often, they have few possibilities to regularize their status, which contributes to their vulnerability.

The local integration opportunities made available by the Malian authorities and civil society to Congolese mandate refugees who had been expelled from Algeria were mentioned as a good practice example in this respect.

Participants also addressed the specific situation of asylum seekers found not to be in need of international protection. Unsuccessful asylum seekers fall into the general category of “irregular migrants” and, at the present time, there are very few initiatives which could facilitate the regularization of their residence status within ECOWAS region and/or assist them to return voluntarily to their country of origin or first country of asylum. Participants pointed to the possibility for unsuccessful asylum seekers to obtain residence permits in Cote d’Ivoire as a positive step towards creating integration opportunities for specific groups of migrants.

Participants discussed the lack of information on migratory movements within the West Africa region. The ECOWAS and IOM-led project to create a database on migration in selected pilot countries in the region was, therefore, seen as a positive initiative.

Recommendations

At regional level

- ECOWAS could conduct a regional review of the migration management framework, including relevant legislation, policies, and procedures at regional and national levels, to better address the specific needs of extra-regional migrants.

At national level

- Governments of the West Africa region are encouraged to design a strategy that would address the specific needs and explore options for the local integration of migrants who are not ECOWAS citizens.

7. Return of non-refugees

Unlike refugees who are assisted by UNHCR when they choose to return to their country of origin, the return of non-refugees (unsuccessful asylum seekers, irregular migrants, etc.) remains a major challenge in West Africa.

Participants discussed the social aspect of return and the fact that in Sahelian countries, returning home is viewed as a form of “shame” and cannot be considered unless “returnees” have accumulated enough money to deal with social redistribution requirements.

Participants also noted that in many cases, return is not a viable option due to lack of reintegration opportunities in the country of origin. They discussed existing reintegration programmes in the ECOWAS region and pointed out that these programmes are usually only available for migrants who have been expelled from European countries with which re-admission agreements exist. Participants mentioned the Return to Agriculture plan (REVA, *Plan Retour vers l’Agriculture*) that was set-up by the Senegalese Government, with the financial support of the Spanish authorities, to help former migrants invest in agricultural projects.

Participants also mentioned, as a good practice example, the three-year plan (2003-2005) that was established by the authorities of Burkina Faso to support the reintegration of migrants in their country.

The IOM-led project of a reintegration fund in Mali, Niger and Ghana for training and micro-projects assistance for migrants was also seen as a positive initiative.

Some participants also underlined that due to the identified gaps in some refugee status determination procedures, it could not always be excluded that unsuccessful asylum seekers could qualify for refugee status. This problem could be addressed best through improved refugee status determination procedures (see Chapter 2 above).

A further challenge raised by participants was the lack of cooperation and information-sharing mechanisms between countries of origin and countries of destination. Participants mentioned in particular the challenges some States are faced with for the treatment of unaccompanied migrant children.

Recommendations

At national level

- ECOWAS Member States, in collaboration with international organizations and the civil society, should develop a comprehensive voluntary return mechanism, including all aspects of the return process from identification to pre-departure counselling, psycho-social assistance services, transportation, reception assistance, reintegration counselling and appropriate socio-economic support for reintegration.
 - Such programme should be developed in all countries of the region, for all returned migrants, regardless of the existence of a re-admission agreement between the “returning country” and the country of origin.
 - This mechanism should include asylum seekers found in a fair and efficient procedure not to be in need of international protection, and not only migrants expelled from Europe or intercepted at sea.

8. Enhancing legal migration: alternatives to dangerous irregular migration?

In recent years, irregular migration from West Africa has increased substantially and has become a major challenge for West African States.

There was a general acceptance that the negative image of migrants and of irregular migrants in particular often leads to negative perceptions and diminishing public and political support for both refugee protection and immigration policies.

The destigmatization of irregular migrants in public discourse was therefore seen as an important element.

Legal migration within the ECOWAS region

Noting that increased legal labour migration opportunities could assist in diminishing irregular migration, participants discussed the expansion of such opportunities in and outside West Africa, particularly through increased use of existing regional frameworks and processes such as the ECOWAS free movement protocols. There was a general acceptance that the ECOWAS framework provides a range of possibilities for secure, legal, human rights-respecting migration in the region that have not been sufficiently explored and that need to be promoted.

Legal migration outside the ECOWAS region

Migration from West Africa to North Africa and Europe was also discussed and participants agreed on the need to foster and nurture mutually respectful and collaborative partnerships, as instruments for responsibility sharing between countries involved in or affected by migratory movements, be they countries of origin, transit or destination. While stressing the need for a common and coherent ECOWAS policy *vis a vis* the European Union, participants urged that bilateral labour migration agreements and MOUs be promoted in order to facilitate lawful migration between West African countries and EU Member States.

Participants mentioned as a good practice example the newly created EC-funded regional migration information centre in Mali (CIGEM) and the migration information centre in Cape Verde (CAMPO).

Protection of the rights of migrant workers

While discussing legal labour migration within and outside the ECOWAS region, participants acknowledged the need to strengthen the protection of the rights of migrant workers.

They called upon countries of departure and countries of destination which have not done so yet to ratify the *Convention on the Protection of the Rights of all Migrant Workers and Members of their Families* as well as the ILO conventions on migrant workers.

Participants also emphasized the need for enhancing efforts to inform migrant workers about their rights. In that respect, they mentioned as a good practice example the multilateral framework for lawful labour migration developed by ILO in five West African countries (Burkina Faso, Cape Verde, The Gambia, Mali and Senegal) to help governments and other partners manage labour migration while protecting the rights of migrant workers.

Recommendations

Legal migration within the ECOWAS region

- ECOWAS Member States are encouraged to harmonize their national migration legislations and policies.
- ECOWAS institutions should develop mechanisms to facilitate the recognition of diplomas and qualifications of labour migrants in all ECOWAS Member States.
- National structures involved in legal migration issues are encouraged to reinforce their coordination and information-sharing mechanisms. Relationships with actors such as trade unions, chambers of commerce in countries of origin and countries of destination should be expanded with the view to ensuring equality of treatment between migrant workers and citizens.

Legal migration outside the ECOWAS region

- Dialogue and cooperation between countries of origin, transit and destination should be strengthened, and bilateral agreements be promoted in order to facilitate legal migration.
- ECOWAS Member States, with the support of relevant actors, are encouraged to establish migration information centres, in order to inform migrants about legal migration opportunities as well as working and living conditions in countries of destination.
- ECOWAS Member States are encouraged to take the necessary steps to prevent “brain-drain” in countries of origin and ensure that low-skilled workers benefit from legal labour migration schemes.
- ECOWAS Member States are encouraged to involve social partners, civil society organizations, and other key actors (e.g. mothers, witch doctors...) in the design and implementation of intra-regional labour migration policies.

Protection of the rights of migrant workers

- ECOWAS Member States, with the support of relevant actors, are encouraged to carry out sensitization and awareness-raising campaigns on the rights of migrant workers.

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