



WORKING PAPER

FACILITATION PANEL (FALP)

THIRTEENTH MEETING

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Agenda Item 2 : Recent Facilitation-related developments in the United Nations and other international organizations

MACHINE READABLE TRAVEL DOCUMENTS FOR REFUGEES AND STATELESS PERSONS

(Presented by the Office of the United Nations High Commissioner for Refugees (UNHCR))

SUMMARY

The paper outlines the current situation for refugees and stateless persons to access a travel document and provides updates of ongoing work to promote inclusion. The paper acknowledges the importance of Convention travel documents linked to the 1951 Convention Relating to the Status of Refugees and/or the 1967 Protocol and/or the 1954 Convention Relating to the Status of Stateless Persons¹ while also highlighting the need for refugees and stateless persons who are lawfully staying in countries that are not party to the aforementioned Conventions to still access a travel document. By raising awareness of the issue, the paper seeks to work collaboratively with the International Civil Aviation Organization (ICAO) States and relevant actors to address any gaps and lift compliance levels on machine readable travel documents for refugees and stateless persons.

Action by the FAL Panel:

The FAL Panel is invited to consider the information described in this paper and advise on the proposed recommendations to promote inclusion and compliance of ICAO contracting States in providing travel documents to refugees and stateless persons.

¹ The 1951 Convention Relating to the Status of Refugees and/or the 1967 Protocol and/or the 1954 Convention Relating to the Status of Stateless Persons can be found on the <https://treaties.un.org> site under the status of treaties, Chapter V on Refugees and Stateless Persons in the depositary.

1. INTRODUCTION

1.1 The situation for refugees and stateless persons comes with specific challenges that affect their access and use of a national passport. In contrast to an ordinary foreign national, a refugee lacks the legal protection of the country of their nationality, and often, they cannot access or safely utilize a national passport for travel purposes. A stateless person is not recognized by any country as a national which can prevent or complicate access to a national passport. Given the unique situation that refugees and stateless persons face, they need to be able to safely access travel documents in the country where they are lawfully staying. Unfortunately, refugees often face protracted situations in their country of asylum without no prospects for return to their country of nationality and no other foreseeable durable solutions in their host country. They must rebuild their lives and seek opportunities where they are available. Situations of statelessness may also be protracted with no immediate access to a nationality in sight.

1.2 Access to travel documents is a distinct right refugees and stateless persons have under the 1951 Refugee Convention and 1954 Statelessness Convention and, together with access to entry, exit and transit visas as well as simplified exit procedures, allows them to safely take up work and study opportunities and reunite with family members in other countries. The ability to renew their travel documents from abroad and for refugees to be able to return to their country of asylum or for stateless persons to return to their country of residence is also key. In turn, this reduces irregular movements, increases self-reliance, protects against refoulement, addresses risks of exploitation and human-trafficking, and safeguards the protection of refugees and stateless persons.

1.3 The history of refugee travel documents dates back to 1922 when the first international instruments were drawn up focusing on certificates of identity for refugees to use for travel. These certificates came to be known as the Nansen passport, helping refugees to reunite with their family and reach safety after World War I. As development of the Convention on International Civil Aviation and the end of World War II unfolded, the large number of refugees across Europe necessitated the adoption of a more formalized travel document through the London Agreement in 1946 and later through Article 28 of the 1951 Convention Relating of the Status of Refugees and the 1954 Convention Relating to the Status of Stateless Persons. From the initial single-page Nansen passport, travel documents for refugees and stateless persons have evolved to meet the current context and global standards.

1.4 At present, the 2017 joint International Civil Aviation Organization (ICAO) – Office of the United Nations High Commissioner for Refugees (UNHCR) Guidance for Issuing Machine Readable Convention Travel Documents (MRCTDs)², along with Annex 9 — *Facilitation* and Doc 9303, *Machine Readable Travel Documents* provide clear instructions to States on issuing Convention travel documents. From the 2019 compliance update³, only 78 countries (or 40 per cent of ICAO contracting States) are providing MRCTDs to refugees and 32 States (or 16.5 per cent of ICAO contracting States) to stateless persons. Additionally, an estimated 41 per cent of refugees do not have access to a travel document from their host State as a majority are in low- and middle-income countries which do not yet have systems in place to provide machine readable travel documents to refugees. Aligning with the *No Country Left Behind* initiative, these figures highlight the need for action and support to increase compliance from States so that refugees and stateless persons, just like other individuals, can access a travel document which can facilitate their travel through regulated procedures and take up opportunities which can promote their self-reliance.

² UN High Commissioner for Refugees (UNHCR), *Guide for Issuing Machine Readable Convention Travel Documents for Refugees and Stateless Persons*, jointly published by UNHCR and the ICAO, February 2017, available at: <https://www.refworld.org/docid/52b166a34.html> [accessed 4 January 2024]

³ UN High Commissioner for Refugees (UNHCR), *2019 Compliance Update: Machine-Readable Convention Travel Documents for Refugees and Stateless Persons*, 2019, available at: <https://www.refworld.org/docid/5db852854.html> [accessed 4 January 2024]

2. DISCUSSION

2.1 The issues preventing refugees and stateless persons from accessing travel documents can be broken down into two categories. The first group applies to States that are parties to the 1951 Refugee Convention and/or the 1967 Protocol and/or the 1954 Statelessness Convention. For Contracting States of these Conventions, there is a legal obligation outlined in Article 28 of both Conventions to, respectively, provide refugees and stateless persons with travel documents. In this situation, the way forward is more straightforward, and compliance issues are often related to adopting and implementing national legislation. Steps for States in this category would entail improving national refugee and statelessness status determination systems and identification of stateless persons and incorporating provision of travel document for refugees and stateless persons into national frameworks and administrative practices, as well as addressing any overdue transition from the use of a manual convention travel document⁴ to a machine-readable one adhering to the technical specifications in Doc 9303.

2.2 In the second category, there are States that are not party to the 1951 Refugee Convention and/or the 1967 Protocol and/or the 1954 Statelessness Convention. As of 30 January 2024, there were 147 States that are party to 1951 Refugee Convention and/or the 1967 Protocol and 98 parties to the 1954 Statelessness Convention⁵. Of particular concern are a number of States in the Middle East and Asia hosting large refugee and stateless populations that are neither party to the 1951 Refugee Convention nor the 1954 Statelessness Convention leaving significant numbers of individuals without access to a travel document. When refugees and stateless persons cannot access a travel document, this can increase the pressure on the country of asylum or the country of residence and limits opportunities to third-country education, labour mobility and other legal pathways. The UNHCR Executive Committee issued a conclusion in 1978 which expressed “the hope that States which are not parties to the 1951 Convention or the 1967 Protocol will issue to refugees lawfully residing in their territory appropriate travel documents under conditions as similar as possible to those attaching to the issue of 1951 Convention Travel Document.”⁶ In 2017, the UNHCR Executive Committee acknowledged the importance of best practices by countries who are not party to the 1951 Refugee Convention and/or the 1967 Protocol, and/or the 1954 Statelessness Convention while also inviting these countries to share their practices in issuing a machine readable travel documents to refugees and stateless persons⁷. However, the existing standards and guidance on machine-readable travel documents for refugees and stateless persons refers exclusively to a Convention travel document, thus leaving a wide gap in coverage for refugees and stateless persons and therefore their inclusion into national services. By clarifying the category of travel documents for refugees and stateless persons to accommodate other types of travel documents beyond Convention Travel Documents (CTDs), this encourages States not party to the 1951 Refugee Convention Relating of the Status of Refugees and/or the 1967 Protocol and/or the 1954 Statelessness Convention Relating to the Status of Stateless Persons to include refugees and stateless persons in relevant planning, frameworks, and administrative practices.

2.3 It is important to note the protective safeguards of Convention travel documents and to consider how these will be maintained in a broader context. One safeguard example is the rationale for omitting a reference to nationality in CTDs. For stateless persons, the reason behind this guidance is that a

⁴ Prior to Document 9303, Convention travel documents booklets were printed by UNHCR and then passed to States for issuance. Given the technical aspects of machine readable travel documents, States are now responsible for issuing MRCTDs, though not all States have updated their systems.

⁵ The list of States who are party to the 1951 Refugee Convention and/or the 1967 Protocol and/or the 1954 Statelessness Convention can be found on the <https://treaties.un.org> site under the status of treaties, Chapter V on Refugees and Stateless Persons in the depositary.

⁶ Executive Committee of the High Commissioner’s Programme, *Travel Documents for Refugees No. 13 (XXIX) - 1978*, 17 October 1978, No. 13 (XXIX), available at: <https://www.refworld.org/docid/3ae68c4413.html> [accessed 4 January 2024]

⁷ Executive Committee of the High Commissioner’s Programme, *Conclusion on machine-readable travel documents for refugees and stateless persons No. 114 (LXVIII) 2017*, 6 October 2017, No. 114 (LXVIII), available at: <https://www.refworld.org/docid/59df19bc4.html> [accessed 4 January 2024]

stateless person, by definition, lacks any nationality, and therefore, it would be inaccurate to indicate a nationality. Refugees, as per Article 33 of the 1951 Refugee Convention, are protected against refoulement to their country of nationality or habitual residence, a fundamental principle of international refugee law. Mentioning nationality of a refugee in the CTD may heighten the risk of refoulement, compromising the document's protective nature. By omitting the nationality field, or if this is not possible, documenting the legal status in lieu of noting nationality⁸, this emphasizes the imperative for international protection and the necessity to prevent refoulement of refugees.

2.4 In summary, there is continued need to support States in both categories (those that are party to the 1951 Refugee Convention and/or its 1967 Protocol and/or the 1954 Statelessness Convention and those that are not party to the aforementioned Conventions) to ensure a machine readable travel document is accessible to refugees and stateless persons in compliance with international standards and reinforce access by amending the applicable standards and guidance to specifically address the latter category. As more States issue travel documents for refugees and stateless persons, this should be counter-balanced by States acknowledging and accepting these travel documents for use. It is important that States continually review practices and implement improvements (e.g. extending validity length, ensuring they can be renewed abroad, etc) on travel documents for refugees and stateless persons, and that ICAO and UNHCR use available resources to remain informed on current State practices. To date, there have already been some initial discussions in the Implementation and Capacity Building Working Group (ICBWG) around the points raised in paper, but given the importance and scope of the conversation, UNHCR wishes to update the FAL panel on the topic and continue raising awareness on the issue for working with the Technical Advisory Group on the Traveller Identification Program and its working groups.

3. RECOMMENDATIONS

3.1 To review the paper and advise on the issues described above;

3.2 To explore amending the relevant provisions of Annex 9 (ref. 3.12) and the relevant sections in Doc 9303 (ref. 4.2.2.2), along with the joint 2017 UNHCR-ICAO *Guide for Issuing Machine Readable Convention Travel Documents for Refugees and Stateless Persons*, as necessary to clarify scope and address coverage gaps in providing a travel document for refugees and stateless persons (see tentative proposal to Appendix A below) which at present only make reference to Convention travel documents;

3.3 To work jointly with UNHCR to track compliance data (e.g., support efforts for UNHCR to provide an updated compliance report and to conduct a joint UNHCR-ICAO survey to Contracting States), to address obstacles preventing or delaying compliance, and to ensure the ongoing development of compliance tools include analysis of travel documents for refugees and stateless persons;

3.4 To determine what steps can be taken to capacitate States to include refugees and stateless persons in the national system for machine readable travel document and utilize the ICAO ICBWG to support in this endeavour including, when necessary, the use of letters to draw attention to issues of non-compliance.

⁸In 4.2.2.2 of Document 9303, it notes that "in MRCTDs, States may include or omit the nationality data element. If nationality is included, it is recommended that States enter "Stateless Person" or "Refugee". This ensures consistency between the VIZ and the MRZ (where the three-letter code for Stateless Persons – XXA, and for Refugees – XXB, appears)."

APPENDIX A

**PROPOSAL FOR AMENDMENTS TO ANNEX 9 — FACILITATION IN REGARD TO
TRAVEL DOCUMENTS FOR REFUGEES AND STATELESS PERSONS**

**CHAPTER 3: ENTRY AND DEPARTURE OF PERSONS AND
THEIR BAGGAGE**

D. Travel documents

3.12 Contracting States shall ensure that travel documents for refugees and stateless persons (~~“Convention Travel Documents”~~) are machine readable, in accordance with the specifications of Doc 9303.

Note. --- A main type of travel documents for refugees and stateless persons are “Convention Travel Documents” which are provided for in the 1951 Convention Relating to the Status of Refugees and the 1954 Convention Relating to the Status of Stateless Persons (cf. respective Article 28 of both Conventions). Contracting States who are not party to the 1951 Convention and/or the 1954 Statelessness Convention are called by the UNHCR Executive Committee of the High Commissioner's Programme on Travel Documents for Refugees No. 13 (XXIX0–1978) to provide similar type documents for refugees and/or stateless persons lawfully staying in their countries.

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