



Machine Readable Convention Travel Documents for Refugees and Stateless persons: the principles and the implementation challenges

Alexander Beck, UNHCR Geneva



Overview

A. Convention Travel Documents (CTDs)

1. History, rationale and legal basis
2. Significance of CTDs for refugees and stateless persons
3. UNHCR's role

B. Reconciling the CTD with ICAO standards

1. The Specimen Travel Document and old UNHCR blank CTDs
2. Main features of the new ICAO compatible CTD
3. Legal considerations

C. The implementation challenge

1. A State responsibility
2. The role of ICAO and UNHCR
3. Practical solutions

Convention Travel Documents

1. History, rationale and legal basis

a) History

- Nansen passport (1922), 1926 Agreement relating to the issue of identity certificates to Russian and Armenian Refugees, 1928 Agreement, 1933 Convention relating to the international status of refugees (Article 2 – Nansen certificate), 1946 (London) Inter-Governmental Agreement on Refugee Travel Documents.

b) Rationale

- Rupture between the refugee or stateless person and the country of origin, need for administrative assistance including documentation (Articles 25, 27 and 28 of the 1951 and 1954 Conventions).

c) Legal basis

- Article 28, Schedule and Annex with Specimen Travel Document of the 1951 Convention and Article 1 (1) of the 1967 Protocol relating to the Status of refugees
- Article 28, Schedule and Annex with Specimen Travel Document of the 1954 Convention relating to the Status of Stateless persons
- Article VI of the 1969 OAU Convention governing the specific aspects of refugee problems in Africa

Convention Travel Documents

2. Significance of CTDs for Refugees and Stateless persons

a) Human rights perspective

- Article 13 (2) UDHR: “Everyone has the right to leave any country, including his own, and to return to his country.”
- Article 12 ICCPR: “(2) Everyone shall be free to leave any country, including his own. (3) The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (*ordre public*), public health or morals or the rights and freedoms of others (...).”

b) Practical significance

- Family visits or family reunification
- Education, Training or Studies
- Employment, Business
- Medical care
- Access to durable solutions, for instance resettlement

Convention Travel Documents

3. UNHCR's role

a) Article 35 of the 1951 Convention

“The Contracting States undertake to co-operate with the Office of the UNHCR (...) in the exercise of its functions, and shall in particular facilitate its duty of supervising the application of the provisions of this Convention.”

b) Article VIII of the 1969 OAU Convention

“1. Member States shall co-operate with the Office of the UNHCR.

2. The present Convention shall be the effective regional complement in Africa of the 1951 UN Convention on the Status of Refugees.”

c) Statute (Annex to GA Resolution 428 of 14 December 1950)

“The High Commissioner shall provide for the protection of refugees falling under the competence of his Office by (a) Promoting the conclusion and ratification of international conventions for the protection of refugees, supervising their application and proposing amendments thereto. [...]

(g) Keeping in close touch with the Governments and inter-governmental organizations concerned.”

Reconciling the CTD with ICAO standards

1. The Specimen Travel Document and old UNHCR blank CTDs
 - a) The Specimen Travel Document in the Annex to the Convention
 - Booklet in at least two languages (English or French)
 - Glued photo
 - Children included
 - Validity for 1 or 2 years
 - Renewable/extendible
 - b) UNHCR blank CTDs
 - Result of the intention to make the CTD as uniform as possible not only as regards the text (prescribed in the Annex) but also with respect to color, type of cover, format and printing (model document in booklet form, stiff blue cover, resembling a national passport).
 - Produced in Switzerland and provided by UNHCR to national authorities of States parties to the 1951 Convention, particularly those in the developing world.

Reconciling the CTD with ICAO standards

2. Main features of the new ICAO compatible CTD

- a) Machine readable page (photo, biometrics optional).
- b) Individual travel document, no inclusion of children.
- c) Nationality and place of birth: not in the specimen but in MTRDs.
States have the flexibility to list nationality, delete the field altogether or indicate “refugee” or “stateless” in the nationality field. In the machine readable zone, ICAO provides 3 digit code extensions for Stateless persons (XXA), Convention Refugees (XXB), other refugees (XXC) and others with undetermined nationality (XXX).
- a) Validity of duration: usually 10 years.
- b) Re-entry or return clause (if shorter than validity) and non-validity for certain countries (para. 4, normally country of origin) to be mentioned on the observations page.
- f) No extension (matter for the issuing authority, para. 6).

Reconciling the CTD with ICAO standards

3. Legal considerations

Conflict of the 1944 Chicago Convention Annex 9 (Document 9303) with the Schedule 1951 Geneva Convention?

- Paragraph 2: “(...) children may be included (...)”
- Paragraph 5: “(...) shall have a validity of either one year or two years (...)”
- Paragraph 6: “The renewal or extension (...)”

► Article 31 of the Vienna Convention on the Law of Treaties: Interpretation in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in the context and the light of its object and purpose.

- a) Para. 1 of the Schedule: “1. The travel document referred to in article 28 of this Convention shall be similar to the specimen annexed thereto.”
- b) Preamble: “Considering that the United Nations has, on various occasions, manifested its profound concern for refugees and endeavored to assure refugees the widest possible exercise of fundamental rights and freedoms.
- c) Article 5 of the 1951 Convention: “Nothing in this Convention shall be deemed to impair any rights and benefits granted by a Contracting State to refugees apart from this Convention.”

The implementation challenge

1. A state responsibility

The issuance of travel documents in general is a result of state sovereignty; the issuance of CTDs, in addition, a treaty obligation and state responsibility.

a) Article 28 of the 1951 and 1954 Conventions

“The Contracting States shall issue to refugees/stateless person lawfully staying in their territory travel documents for the purpose of travel outside their territory unless compelling reasons of national security or public order otherwise require, and the provisions of the Schedule to this Convention shall apply with respect to such documents. (...)”

b) Article VI of the 1969 OAU Convention

“Subject to Article III, Member States shall issue to refugees lawfully staying on 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, (...)”

The implementation challenge

2. The role of ICAO and UNHCR

a) ICAO

- Standard setting
- Advocacy
- Technical guidance
- Technical assistance

b) UNHCR

- Supervision and Advocacy
- Technical assistance
- No further production of blank CTDs. Issuance of old blank non ICAO compatible CTDs now only in exceptional situations
- Financial assistance: past and future

