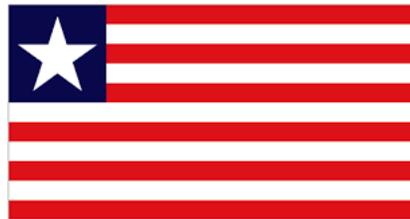




Baseline Assessment Summary (January 2016)
Republic of Liberia/ Bureau of Immigration and Naturalization



TECHNICAL EXPERTISE REQUEST:
Revision of Liberia's Aliens and Nationality Act

The Republic of Liberia has no Migration Profile published and few statistics are available. During and after 14 years of civil conflict that ended in 2003, Liberia experienced significant migration flows into and out of the country and is now hosting tens of thousands of refugees and asylum seekers, from Sierra Leone and more recently from Cote d'Ivoire following post-election violence in 2010. With peace and stability restored and an economy set to grow, Liberia is expecting continued migration, including the return of Liberians living in the sub-region in response to the invocation of the refugee Cessation Clause on June 30, 2012. With regard to other migration flows the most recent available immigration statistics reveal that most of the migration Liberia is dealing with comes from within the ECOWAS region. In 2008 there were 92,563 documented people travelling into Liberia out of which 69,321 from the ECOWAS region, particularly Guinea, Sierra Leone and Côte d'Ivoire. In 2013, there were

225484 international migrants¹ in the country, with no major differences between men and women. The great majority of them are coming from Côte d'Ivoire, but also from Guinea, Sierra Leone, Ghana and Nigeria². Emigration statistics are very scanty as well. In 2011 the BIN registered 35,149 Liberians travelling mainly to the USA, China, Ghana, Nigeria, Sierra Leone and Guinea. The UN Data reveals other scenario, pointing that, in 2013, in terms of destination, the leading countries are Guinea, Côte d'Ivoire, United States of America, Sierra Leone and Nigeria. There are approximately more than 500,000 Liberians residing outside the Republic of Liberia - the overwhelming majority of Liberians who re-settled abroad as a result of intractable conflicts both the 1980 military and 14 years of civil war.

Reasons of the request:

In March 2015, the Government of Liberia has approved a security transition plan in view of the withdraw of the United Nations peace keeping mission, where the revision of the Alien and Nationality Act has been indicated as one of the benchmarks to be fulfilled in order to ensure peace and stability in the country. The actual Alien and Nationality Act, approved in 1955 and amended in 1974, is not adapted to respond to the growing border management challenges and to the increased number of migration flows.

The present baseline assessment was therefore developed within the framework of a request on behalf of the *Bureau of Immigration and Naturalization* (BIN) of the *Republic of Liberia* for technical assistance (TA) to support the review process of the Aliens and Nationality Act. While the objective of the technical assistance is to provide policy guidelines and recommendations for the revision of the Alien and Nationality Act of Liberia and to develop a roadmap ensuring the sustainability of the proposed recommendations, the purpose of the present baseline assessment is to give a picture of the situation before the inception of the intervention.

Learning from the Baseline Assessment:

- The fact that the Aliens and Nationality Law is pointed as one of the requested law reforms is based on the need and urgency to control the movements across the borders, to cooperate in the borders with the neighbouring countries, to prevent that the conflicts in the region are spilled over to the Liberian territory, to counteract the human trafficking and terrorism, to manage the “discrepancy between labour demand and visa supply, the fate of the estimated 1 million unauthorized residents primarily from neighboring African countries, or the extended separation of Liberian citizens and residents from their families abroad³”, to take in consideration “return migration, and the increasing

¹ The mid-year (1 July) estimate of the number of people living in a country or area other than that in which they were born. If the number of foreign-born was not available, the estimate refers to the number of people living in a country other than that of their citizenship. Source: United Nations, Department of Economic and Social Affairs, Population Division (2013). Trends in International Migrant Stock: The 2013 Revision (United Nations database, POP/DB/MIG/Stock/Rev.2013). See: www.unmigration.org

² United Nations, Department of Economic and Social Affairs, Population Division (2013). Trends in International Migrant Stock: The 2013 Revision (United Nations database, POP/DB/MIG/Stock/Rev.2013).

³ Draft National Migration Policy, Foreword by Cllr. Christiana P. Tah Minister of Justice/ Attorney General R.L.

importance of remittance transfers from abroad on Liberian economy”⁴ and to overcome the tensions around the identity of the people and the definition of the citizenship. Further, as described in the national migration policy migration is a cross cutting issue. Finally, the recognition that “Liberia has a large diaspora community (...) who contribute massively to the Liberian economy” makes “the increased collaboration with the Liberian diaspora (...) a national priority issue”⁵ that needs to be addressed in the Aliens and Nationality Act.

- The Liberian Government is aiming, through the revision of the Aliens and Nationality Act, at strengthening its institutional capacity in order to ensure an effective border and migration management and, hence, an efficient regulation and protection of migrants rights.
- Although the priority of elaborating the Migration Act was discussed since the elaboration of the plan, no major progresses have been achieved so far. Of particular relevance is the internal work of BIN on the amendments proposed to the Aliens and Nationality Act developed by the BIN Legal Team with the assistance of the Advisory Team from the UNMIL. Although there are positive points to highlight in this effort, the revision of the law was not done bearing in mind the objectives and strategies established in the Draft National Migration Policy. In fact, this document is the guidance for the action in terms of migration management to and from Liberia and “an instrument to inform change of a national legal framework on immigration and emigration”⁶. There are no other initiatives in progress in areas linked to the thematic area of the Technical Assistance.
- The Liberian Aliens and Nationality Law is deficient in several aspects, chief among them is the fact that Liberia’s international legal obligations are not incorporated in the laws.
- Attention shall be given to discuss and clarify the mandates and responsibilities of all relevant authorities in the immigration management system, namely between the BIN and the MFA (diplomatic missions abroad).
- The law needs to present different categories of visas according to its purpose, namely for: investment, study, work, family reasons, tourism, health, transit, or to other visitors, diplomats and for humanitarian reasons. The requirements for the visa applicants and the institutional procedures need to be better defined. No room shall be given to arbitrary decisions. One shall reformulate the grounds for exclusion.
- Residence permits shall, in order to better streamline with a visa policy, only be issued to those with a clear intent to reside in Liberia and shall be disaggregated by the nature of stay in Liberia. One recommends to eliminate the restrictions on the settlement of immigrants. A residence permit policy shall take into account the ECOWAS Protocol on Free Movement of ECOWAS Citizens and the harmonization by its member states of rules appertaining to the issuance of residence cards/permits.
Liberia shall consider to provide a legal status to those who are currently illegally residents⁷.

⁴ Under the Policy Context of the Draft National Migration Policy.

⁵ Under the Liberia’s Position on Migration of the Draft National Migration Policy.

⁶ Under the Rationale of the Draft National Migration Policy.

⁷ Idem.

- Grounds for exclusion/deportation shall be carefully revised. The decisions on deportation should be judicial and not of administrative. The entire process of exclusion and departure is tedious and long-winded and should be rationalized. It should be defined a maximum period of detention before and after a determination of deportability. The law should comply with the principle of non-refoulement. It is recommended to add a provision that prohibit the expulsion of stateless persons.
- The penalties are, in some cases, very severe and shall be proportionate for the act.
- The Republic of Liberia shall develop a legal framework to address the needs of unaccompanied minor immigrants or to protect abused, abandoned, or neglected immigrant children, as well as to address the situation of victims of trafficking.
- For the reform of the nationality section of the Act one should have in mind the basic principles of international law that have been laid down, namely the prohibition on racial, ethnic, gender or political discrimination in granting or revoking citizenship and the requirement to grant nationality to children born in the territory who would otherwise be stateless. An affirmative provision allowing for dual nationality under Liberian law should be considered bearing in mind, among other aspects, the importance of the Liberian diaspora in the development of the country. It is of utmost importance to take into consideration how the Constitution of the Republic of Liberia from 1986 determines the citizenship. In light of this, one needs to identify what are the changes needed in the 1973 Aliens and Naturalization Act to conform with the primary law and what from those require a constitutional amendment.



This Action is funded by the European Union