

Benin

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TO: International Refugee Assistance Project

RE: Benin Refugee Programs

Benin is a relatively small, French-speaking¹ West African country that borders Togo and Nigeria. The Government of Benin (“GoB”) maintains a refugee program supported by the United Nations High Commissioner for Refugees (“UNHCR”). To date, most of Benin’s experience with international refugees has come from refugees fleeing local conditions in neighboring Togo, and more recently Nigeria, but the country has a generally positive reputation for its treatment of refugees and immigrants.² According to UNHCR data sets, as of 2020 Benin hosted 1401 refugees and 464 asylum seekers.³

Key Facts

- **A visa is required for entry for Afghan citizens. An application for a temporary residence permit is required for those remaining in the country for over three months.**
- **Undocumented immigrants may be expelled from the country within three days.**

¹ Benin’s public documents are published exclusively in French. Informal translations using Google translate were used for this memo.

² See, e.g., Inter Press Service, Benin – the Launchpad and Home for African Migrants (July 26, 2018) (<http://www.ipsnews.net/2018/07/benin-launchpad-home-african-migrants>).

³ See UNHCR, Refugee Data Finder (<https://www.unhcr.org/refugee-statistics/download/?url=oNgC7e>).

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- **Decisions regarding refugee applications are to be made within 90 days of initial review; if no decision is made in that time an applicant’s refugee status is recognized by default.**
- **UNHCR does not currently maintain a presence in Benin, and refugee protection is not the primary mandate of local human rights organizations.**
- **Benin law affords refugees and immigrants with equal access to work, education, and social services.**

Refugee Program Overview

Refugees in Benin are governed by the 1975 Statute of Refugees (“Statute of Refugees”).⁴ This statute implements the 1951 Refugee Convention and 1967 Protocol, and Article 1 of the 1969 Convention of the African Union. Under the State of Refugees, refugees may only be expelled from Benin for reasons on national security or if they engage in activities contrary to public order or are convicted of serious crimes.⁵ The Statute of Refugees requires the government to recognize the professional credentials of refugees,⁶ and to afford refugees with equal access to education, employment, and social benefits.⁷

In practice, GoB’s refugee program is managed by a National Refugee Commission (“Commission”) that is part of the executive branch of the government. The President of Benin established the current National Refugee Commission via executive decree, No. 295 of July 11,

⁴ Ordonnance No. 75-41 du 1975 portant statut des réfugiés, 16 July 1975, available at: <https://www.refworld.org/docid/3ae6b4d544.html>

⁵ *Id.* at Art. 4.

⁶ *Id.* at Art. 5.

⁷ *Id.* at Art. 6.

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2018.⁸ The Commission is headed by Benin's Minister of Justice and composed of members of Benin's ministries of Justice, Health, De-centralization, Social Affairs, National Defense, Finance, and Science. The Commission is responsible for coordinating the GoB's cross-department refugee program in accordance with the principles of the 1951 Refugee Convention and its 1967 Protocol, and the Convention of the African Union, including both evaluating requests for asylum (and appeals) under the 1975 Statute of Refugees, discussed above.⁹ It is itself comprised of two committees responsible for different aspects of the program.

First, the Eligibility Committee (Comité d'éligibilité) consists of six members from the ministries of Public Security, Justice, and Foreign Affairs. It meets weekly (or more often as required) and is responsible for reviewing applications made under the statute of refugees and advising the President of the Commission on proper adjudication. The Eligibility Committee is encouraged to make eligibility decisions by consensus, but may make decisions by majority vote in the case of disputes. The Eligibility Committee may elect to interview applicants, and is charged to reach a decision within 90 days of first reviewing an application.¹⁰ Should the Eligibility Committee deny refugee status, the applicant may appeal the decision to the Appeals Committee (Comité de recours). Like the Eligibility Committee, the Appeals Committee is comprised of two members each from the Public Security, Justice, and Foreign Affairs ministries. It decides appeals by consensus, or in case of dispute, by majority vote, and is required to decide the appeal in writing

⁸ See Art. 3, Decret No. 2017 – 295 du 11 Juillet 2018, available at: <https://sgg.gouv.bj/doc/decret-2018-295/>

⁹ *Id.* at Arts. 5–6.

¹⁰ *Id.* at Arts. 11–20.

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within 90 days. The decisions of the Appeals Committee are final.¹¹ A representative of UNHCR may participate in, and provide briefings to, both the Eligibility and Appeals Committees, but does not have voting rights.¹² Additionally, the Commission contemplates non-governmental organizations providing legal aid to refugees throughout the application process.¹³

The work of the Committees is governed by procedural manuals; however these manuals do not appear to be publicly available.

Non-Refugee Immigration to Benin

Entry into Benin and immigration requirements are governed by a 1986 statute on the “Regime Applicable to Foreigners in Benin”¹⁴ and a 1992 regulation establishing immigration procedures.¹⁵ Under this regime, foreign visitors to Benin are not classified as immigrants for three months after arrival; after three months they must request a temporary resident permit.¹⁶ However, for initial entry into Benin visitors are required to possess a passport, vaccination certificate, and entry visa. To obtain a visa, the applicant must hold a valid passport, have a certificate of residence or a hotel reservation. Individuals seeking a tourism visa may apply

¹¹ *Id.* at Arts. 21–26.

¹² *Id.* at Art. 29.

¹³ *Id.* at Art. 30.

¹⁴ Loi No. 86-012 Portant Régime des Etrangers en République Populaire du Benin, available at: <https://sgg.gouv.bj/doc/loi-1986-012/>

¹⁵ *See* International Centre for Migration Policy Development, A Survey on Migration Policies in West Africa, 79, 84 (Mar. 2015) (https://publications.iom.int/system/files/pdf/survey_west_africa_en.pdf).

¹⁶ *See id.*

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electronically at <https://evisa.gouv.bj/>. Citizens of most African nations are not required to obtain a visa prior to entry, but visas are required for citizens of Afghanistan.¹⁷

The 1986 statute creates a system of three resident permits, beginning with the temporary resident permit. Temporary resident status is valid for one year and may be renewed twice. After the applicant has resided in Benin for three years (and has therefore exhausted their temporary status), they may apply for an ordinary resident permit, which is valid for a maximum of three years, and is renewable. After ten years of residence, the applicant may apply for a privileged resident permit, which is valid for ten years and is renewable as of right.¹⁸ As part of the application process, the GoB considers the prospective resident's occupation in Benin and their criminal record. The GoB requires a repatriation guarantee, which could be an obstacle for Afghan citizens, a medical certificate that the individual is free of sexually transmitted diseases, and an application fee. Supplemental procedures are available for citizens of ECOWAS (Economic Community of West African States) countries, but these will likely not apply to most Afghan citizens.

Applicants for temporary resident status must supply the following documentation

¹⁷ See African Development Bank Group, Africa Visa Openness Report 2018, 16 (Jan. 15, 2019) (https://www.afdb.org/fileadmin/uploads/afdb/Documents/Generic-Documents/VisaORReport2018_R15jan19.pdf); Quartz Africa, *African countries are relaxing visa rules for each other ahead of a historic free trade agreement* (Dec. 11, 2020) (<https://qz.com/africa/1944651/more-african-countries-open-to-africans-without-needing-a-visa/>).

¹⁸ See International Centre for Migration Policy Development, *A Survey on Migration Policies in West Africa*, 79, 84 (Mar. 2015) (https://publications.iom.int/system/files/pdf/survey_west_africa_en.pdf).

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with their application¹⁹:

- Certificate of residence
- Medical examination certificate (less than 3 months old)
- Judicial records from origin country (less than 3 months old)
- Proof of occupation
- Copy of passport
- Fees (100,000 CFA or approximately \$180 USD as of 8/9/21) and a “repatriation bond”

The Minister of the Interior is responsible for undocumented immigrants and may order an individual to be returned to their origin country within three days. Alternatively, the individual may be required to pay a fine.²⁰ The International Centre for Migration Policy

Development notes that:

Benin’s national authorities appear to adopt expulsion orders more often than most West African countries. In 2012, 166 individuals were returned to their country of origin on grounds of absence of visa, fraudulent travel documents, and irregular entry/stay. . . . In most cases, expelled individuals hold falsified Schengen visas or passports. It is therefore likely that most expelled migrants are individuals seeking irregular entry in EU Member States through Benin.²¹

Benin also has legacy legislation that restricts the free movement of foreigners in the country,

¹⁹ Direction de l’Emigration et de l’Immigration, République du Bénin, Services (<https://dei.gouv.bj/services/>)

²⁰ *See id.* at 86.

²¹ *Id.*

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however this law does not appear to be enforced.²²

The US embassy reports that Benin's Cotonou Cadjehoun Airport is "operating at close to pre-pandemic levels" but that land borders remain closed due to COVID-19 prevention measures.²³ Therefore, entry to the country from Afghanistan is likely to be restricted to international air travel. Negative COVID-19 tests are not required prior to entry at this time, however visitors will be tested upon arrival. Visitors will likely be required to pay a fee for the tests.²⁴

Refugee Conditions and Human Rights

Historically, Benin has experience two significant influxes of refugees from neighboring Togo in the late 1990s and early 2000s. These refugees were largely fleeing periods of political repression by the government of Togo.²⁵ Benin experienced a maximum refugee population of over 150,000 individuals in 1993, with numbers stabilizing at less than 10,000 thereafter. To cope with short term influxes of displaced persons and longer term refugee populations, the GoB has utilized refugee camps, though refugees are entitled to live freely in the

²² *See id.* at 85.

²³ *See* U.S. Embassy in Benin, COVID-19 Information, Aug. 4, 2021 (<https://bj.usembassy.gov/info-covid19/>)

²⁴ *See* Embassy of Benin, Visa Requirements (<https://beninembassy.us/visas/>).

²⁵ *See, e.g.*, UNHCR, U.S. Committee for Refugees World Refugee Survey 1998 – Togo, Jan. 1, 1998 (<https://www.refworld.org/docid/3ae6a8bd4.html>); United Nations Population Fund, Addressing the Urgent Needs of Togo's Refugees, Sept. 6, 2005 (<https://www.unfpa.org/press/addressing-urgent-needs-togos-refugees>).

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country under local law.²⁶ Refugees are generally entitled to equal treatment with respect to labor, education, and health rights, with social services historically supported by UNHCR funding.²⁷

Recently, the GoB has been criticized for human rights violations, including political repression of opposition parties and journalists. Amnesty International reports that the government has used COVID-19 restrictions as a means of “prevent[ing] political opponents from organizing” and has violently dispersed gatherings and protests.²⁸ Amnesty International also reports “widespread use of violence and sexual harassment against women and girls.”²⁹ While political freedoms may be practically limited, Freedom House reports that “religious freedom is constitutionally guaranteed and generally respected in practice” and “academic freedom is largely respected.”³⁰ However, Freedom House agrees that while the Benin constitution prohibits discrimination on the basis of race or gender, “women experience discrimination in employment and access to credit, health care, and education” and “domestic violence remains a serious

²⁶ See Inter Press Service, Benin: Modern Refugee Camp Built for Asylum Seekers (Oct. 28, 1999) (<http://www.ipsnews.net/1999/10/population-benin-modern-refugee-camp-built-for-asylum-seekers/>); UNHCR, Benin closes Come camp for Togolese refugees, Aug. 18, 2006 (<https://www.unhcr.org/en-us/news/latest/2006/8/44e5d9872/benin-closes-camp-togolese-refugees.html>)

²⁷ See UNHCR, World Refugee Survey 2008 – Benin (June 19, 2008) (<https://www.refworld.org/topic,50ffbce5124,50ffbce514e,485f50c31b,0,,BEN.html>).

²⁸ Amnesty International, Benin 2020 (<https://www.amnesty.org/en/countries/africa/benin/report-benin/>).

²⁹ *Id.*

³⁰ Freedom House, Freedom in the World 2021, Benin (Mar. 3, 2021) (<https://www.justice.gov/eoir/page/file/1373521/download>).

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problem.”³¹ Homosexuality is not criminalized, however members of the LGTBQ community may face discrimination and violence, including from local police.³²

Assistance Available

UNHCR does not currently maintain a local office in Benin. The Commission coordinates with UNHCR via the regional office in Dakar, Senegal:

FAALO, route du King Fahd
Palace (Ex Meridien), 3125 Dakar, Senegal
Tel: 221 33 859 7050
Fax: 221 33 867 6215
Email: senda@unhcr.org

Benin maintains a national human rights commission, the Commission Béninoise des Droits de l’Homme (“CBDH”), which is independent of the government. Its focus is more on domestic human rights issue than refugee protection, and has been historically criticized for passivity and for being under-resourced.³³ CBDH maintains a subcommittee dealing with issues of statelessness and refugees.

Square 570 Quartier Gbédomédji 7th Arrondissement
105 Rue Victor Schoelcher (7.025)
Tel: 229 68 00 58 58
Tel: 229 95 99 07 07
Email: info@cbdh.bj

The Ligue pour la Defense des Droits de l’Homme au Benin (Benin Human Rights

³¹ *Id.*

³² Dept. of State, Benin 2020 Human Rights Report
(<https://www.justice.gov/eoir/page/file/1385181/download>)

³³ See Human Rights Watch, Government Human Rights Commissions in Africa – Benin (2001)
(<https://www.hrw.org/reports/2001/africa/benin/benin.html>).

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Defense League) has historically focused on protection of Togolese refugees, but has generally advocated for refugee rights and treatment:

B.P. 03-630, Cotonou
Tel: 229 22 21 93
Fax: 229 33 26 01
Email: indhbenin@yahoo.fr

Informal Assessment

While Benin does appear to maintain generally refugee-friendly policies, it is a challenging destination for Afghan refugees. Travel to the West African nation from Afghanistan is likely to be practically difficult, and entry into Benin for Afghan citizens will be conditioned on obtaining a visa. Benin's land borders are currently closed, and in any case are impractically distant from Afghanistan. The process for applying for official residency in Benin appears to be expensive and requires extensive, and recent, national documentation (including criminal and medical records) that may be difficult or impossible for an Afghan refugee to obtain. The GoB is apparently willing to expel undocumented immigrants, which could force a refugee to return to Afghanistan or seek protection in a third country. UNHCR does not currently have an in-country presence in Benin. Benin appears to have limited in-place infrastructure and resources to support refugees, and has historically focused on regional refugee populations rather than global refugees. Similarly, Benin's immigration and travel policies favor citizens of other African nations over those of countries like Afghanistan. On the positive side, Benin's refugee program requires relatively fast decisions once an applicant's case is heard, and provides for a default refugee status if the Eligibility Commission does not make a decision within 90 days of its review.

Relocating to Benin permanently would be challenging for Afghan citizen because of the language barrier, lengthy residence application process and relatively local, developing economy. The tiered system of residency permits requires frequent reapplication, which may be

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expensive and difficult to complete without continued legal assistance. Benin law may recognize an individual's Afghanistan professional certifications, which could help ease the transition, and generally supports immigrant labor rights. However, while Benin's constitution and laws protect human rights, the country has faced its own problems in these areas, especially with respect to women's rights. More recently the country has experienced an increase in political repression under President Talon.

Therefore, while Benin has some favorable immigration and refugee laws and procedures, it does not on the whole favor individuals coming from Afghanistan. The limited resources available, relatively limited economic opportunities, and local human rights issues may outweigh the benefits of navigating Benin's refugee or residency application systems if equally favorable and more accessible jurisdictions are available.