

10-Point Plan Expert Roundtable No. 3

“The return of non-refugees and alternative migration options”

Geneva, 30 November – 1 December 2009

Introduction

A functioning migration management system provides solutions for all arrivals, including migrants who either never sought asylum or who, after due consideration of their claims in a fair and efficient procedure, were found neither to qualify for refugee status according to the 1951 Convention, nor to be in need of international protection in accordance with other international obligations. Such persons are referred to in UNHCR’s 10-Point Plan on refugee protection and mixed migration as non-refugees. The identification of solutions is important for the individuals themselves, but also to allow broader policy objectives to be addressed. Amongst other things, solutions are essential for maintaining credible asylum systems and for avoiding negative public perception about the continued presence of migrants without permission to stay in the host country.

The 10-Point Plan suggests two possible solutions: voluntary return to the country of origin or access to alternative legal migration options. The latter includes regularisation possibilities in the host country and the use of legal migration to a third country. It also includes, on a policy level, the establishment of alternative legal migration channels. Legal migration options can pursue humanitarian objectives, or be based on labour migration, education or family reunification programmes. They can be open to a broad range of people or targeted towards individuals with a specific profile.

Effective return policies are of particular importance in cases where alternative migration possibilities are not an option. However, the implementation of such policies can pose a number of challenges. Many people, who have risked their lives and invested their fortunes, and also sometimes that of their families and communities, may not easily accept the failure of their migration plan. Additionally they may have little or no meaningful alternatives at home to sustain themselves and their families. While States have, within the limits of international law, the sovereign right to admit, bar or expel persons from their territory, forced return is a cost intensive exercise which can undermine the returnee’s dignity and be difficult to align with human rights objectives. For those who have decided to return home, practical difficulties such as a lack of identity documents, reluctance of countries to readmit their nationals and financial constraints may need to be overcome.

As to which of the different possible solutions should be pursued, this decision is often not easy, especially if the views of different stakeholders involved differs on whether there is any alternative to return.

The co-hosting organisations have all been involved in the identification of solutions for people who are not in need of international protection. The International Organisation for Migration (IOM) has particular expertise in return migration. IOM has been assisting many governments in addressing the practical needs and challenges of return and establishing specific programmes which have helped a large number of people to voluntarily return home.

The ILO has been instrumental in the development of labour migration policies. The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families¹, and ILO instruments acknowledge need for protection of migrants under international law. ILO has been assisting governments and social partners in all regions to enhance development by improving regulation of labour migration.

Persons not in need of international protection do not fall as such under UNHCR's mandate. However, recognizing the impact of broader migration policies on the international protection system, including the identification of solutions for people not requiring international protection, the Office has been involved in this topic. In 2003, the Executive Committee acknowledged UNHCR's readiness "on a good offices basis, to support States, upon their request, in their endeavours to return persons found not to be in need of international protection, provided that the involvement of the Office is not inconsistent with its humanitarian mandate to provide international protection to refugees".²

This Expert Roundtable will review some of the policies and practices which have been developed in different regions. It will discuss recommendations for effective policies and sustainable solutions for people not in need of international protection, which take into account the interests of the individual, the host country and the country of origin.

This meeting will take place in Geneva on 30th November and 1st December 2009. It is the third in a series of four expert roundtables that UNHCR is organising as part of a project funded by the European Commission on UNHCR's "10-Point Plan of Action on Refugee Protection and Mixed Migration". The project also includes a published Compilation of practical examples on the 10-Point Plan and the organisation of four regional conferences. While the expert roundtables have a thematic focus, the main objective of the regional stakeholder conferences is to enhance responses to mixed migration in a particular regional context.³

¹ UN General Assembly, *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* : resolution / adopted by the General Assembly, 18 December 1990, A/RES/45/158, available at: <http://www.unhcr.org/refworld/docid/3b00f2391c.html>

² UN High Commissioner for Refugees, *Conclusion on the return of persons found not to be in need of international protection*, 10 October 2003, No. 96 (LIV) - 2003, available at: <http://www.unhcr.org/refworld/docid/3f93b1ca4.html>

³ UN High Commissioner for Refugees, *UNHCR's 10-Point Plan in Central America, Western Africa, Eastern Africa and Asia - a three-year project*, October 2009, available at: <http://www.unhcr.org/refworld/docid/4af2febc2.html>



Suggested participants

Around 25 individual experts from governments, international and regional organisations and non-governmental organisations, directly involved in return operations for non-refugees and legal migration programmes, will be invited to the roundtable. The participants will be identified and selected on the basis of their in-depth knowledge of, and practical experience in, the topics for discussion.

Suggested agenda

Monday, 30 November 2009

8.30-9.00	Registration of participants
9.00-9.15	Welcome by the co-organizers
9.15-9.30	Welcome address by Volker Türk, Director, International Protection, UNHCR

9.30-13.00	WORKING SESSION I Creating opportunities for regular migration
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9.30-9.45	Presentation on regular migration options, Patrick Taran, Senior Migration Specialist, ILO
9.45-10.00	Presentation on regularisation programmes
10.00-10.45	<u>Presentation of good practice examples</u> <ul style="list-style-type: none">• Hardship Commissions in Germany, Heiko P. Müller, Representative of Amnesty International at the Hardship Commission• The ECOWAS Protocols on Free Movement, Right of Residence and Establishment, Sanoh N’Faly, Director of the Department of Free Movement of Persons and Goods, ECOWAS Commission• Work permits for unsuccessful asylum-seekers in Cote d’Ivoire, Yeo Baba, Director of the Immigration Department, Ministry of Foreign Affairs, Cote d’Ivoire

10.45-11.00 **Coffee break**

11.00-13.00 Working Groups

Participants will discuss, *inter alia*, the following questions:

1. What are the benefits of regularisation programmes for non-refugees?
2. What could be the targeted groups for such programmes?
3. What is the impact of regularisation/legal migration options on receiving and sending countries?

12.30-13.00 Reports from the working groups

13.00-14.30 Lunch break

14.30 – 18.00 WORKING SESSION II Managing return

14.30-14.45 Managing return migration: main policy issues and challenges

14.45-15.00 Assisted Voluntary Return and Reintegration Programmes, Ana Fonseca, Senior Specialist, IOM

15.00-15.30 The return of separated children, Jyothi Kanics, Advocacy & Policy Specialist, UNICEF

15.30-17.00 Working Groups

Working group A: Providing counselling and preparing for return

Participants will discuss, *inter alia*, the following questions:

1. How to conduct counselling to ensure return?
2. What information should non-refugees receive before return?
3. How would non-refugees be involved in planning and managing their return and reintegration?

Working group B: The issue of return of people with specific needs

Participants will discuss, *inter alia*, the following questions:

1. How to ensure that the best interest of the child is made a primary concern in the decision on return and its implementation?
2. What issues should be taken into consideration with regard to the return of trafficked persons?
3. What is the impact of health related issues on return?
4. What issues should be taken into consideration with regard to the return of stateless persons?

- 17.00-17.30** **Coffee Break**
- 17.30-18.00 Reports from the working groups
- 19.00** **Reception**

Tuesday 1 December 2009

9.00-9.30 Introductory session

9.30-13.00 **WORKING SESSION III Ensuring sustainable returns**

9.30-10.30 Presentation of a video: “Stories of return” followed by a discussion on sustainable returns

10.30-10.45 **Coffee break**

10.45-11.00 The Kosovo airport post-return monitoring project, Francesco Ardisson, Senior Protection Officer, UNHCR

11.00-13.00 **Working Groups**

Working group A: Post-return monitoring

Participants will discuss, *inter alia*, the following questions:

1. In which return operations can post-return monitoring be useful?
2. What actors are/should be involved in post-return monitoring?

Working group B: Ensuring the sustainability of return

Participants will discuss, *inter alia*, the following questions:

1. What indicators should be used for assessing the sustainability of return?
2. What policy instruments, economic means and international support would enhance the possibilities to create and maintain business/employment opportunities for returned non-refugees?
3. What balance should be sought between cash and in-kind assistance; between assistance to the individual and assistance to the community of return?
4. Given the limited data on the sustainability of returns, what research would be useful for policy makers?

12.30-13.00 Reports from the working groups

13.00-14.30 **Lunch break**

14.30 – 17.00 **WORKING SESSION IV**
Promoting a collaborative approach for the identification and implementation of solutions for non-refugees

- 14.30-14.45 Inter-state cooperation on the expansion of solutions for non-refugees
- 14.45-15.00 Readmission agreements: the receiving country's perspective, Mohamed Abdellahi Ould Zeidane, Ministry of Interior, Mauritania
- 15.00-15.15 Experience of inter-agency cooperation in the North Africa region, Johannes van der Klaauw, UNHCR Representative, Morocco

15.15-17.00 **Working Groups**

Working group A: Enhancing inter-state cooperation

Participants will discuss, *inter alia*, the following questions:

1. How can bilateral or regional readmission agreements facilitate sustainable returns?
2. What are the benefits and challenges of labour migration partnerships for sending and receiving countries, as well as for migrants themselves?

Working group B: Fostering inter-agency cooperation

Participants will discuss, *inter alia*, the following questions:

1. Where/in which context should agencies enhance their cooperation?
2. What are the benefits of humanitarian agencies' involvement in the expansion of solutions for non-refugees?

16.00-16.30 **Coffee break**

16.30-17.00 Reports from the working groups

17.00-18.00 Recommendations and Closure