

## **IRREGULAR MOVEMENT OF REFUGEES AND ASYLUM-SEEKERS FROM A COUNTRY IN WHICH THEY HAD ALREADY FOUND PROTECTION**

*The Executive Committee,*

### **No. 36 (XXXVI) – 1985**

(j) *Noted* with concern the growing phenomenon of refugees and asylum-seekers who, having found protection in one country, move in an irregular manner to another country and expressed the hope that the problem this represents can be mitigated through the adoption of global solutions in a spirit of international co-operation and burden-sharing, and requested the High Commissioner to continue consultations with a view to reaching agreement on this matter;

### **No. 46 (XXXVIII) – 1987**

(h) *Noted* with concern the growing phenomenon of refugees and asylum-seekers who, having found protection in one country, move in an irregular manner to another country and called upon the High Commissioner to implement paragraph (j) of Conclusion 36(XXXVI);

(i) *Noted* with concern the growing phenomenon of refugees and asylum-seekers who, having found protection in one country, move in an irregular manner to another country and called upon the High Commissioner to implement paragraph (j) of Conclusion 36 (XXXVI);

### **No. 50 (XXXIX) – 1988**

(n) *Noted* with concern the growing phenomenon of refugees and asylum-seekers who, having found protection in one country, move in an irregular manner to another country and called upon the High Commissioner to implement paragraph (j) of Conclusion 36 (XXXVI).

### **No. 58 (XL) – 1989 – Problem of Refugees and Asylum-Seekers Who Move in an Irregular Manner from a Country in Which They Had Already Found Protection**

(a) The phenomenon of refugees, whether they have been formally identified as such or not (asylum-seekers), who move in an irregular manner from countries in which they have already found protection, in order to seek asylum or permanent resettlement elsewhere, is a matter of growing concern. This concern results from the destabilizing effect which irregular movements of this kind have on structured international efforts to provide appropriate solutions for refugees. Such irregular movements involve entry into the territory of another country, without the prior consent of the national authorities or without an entry visa, or with no or insufficient documentation normally required for travel purposes, or with false or fraudulent documentation. Of similar concern is the growing phenomenon of refugees and asylum-seekers who wilfully destroy or dispose of their documentation in order to mislead the authorities of the country of arrival;

(b) Irregular movements of refugees and asylum-seekers who have already found protection in a country are, to a large extent, composed of persons who feel impelled to leave, due to the absence of educational and employment possibilities and the non-availability of long-term durable solutions by way of voluntary repatriation, local integration and resettlement;

- (c) The phenomenon of such irregular movements can only be effectively met through concerted action by governments, in consultation with UNHCR, aimed at:
- (i) identifying the causes and scope of irregular movements in any given refugee situation,
  - (ii) removing or mitigating the causes of such irregular movements through the granting and maintenance of asylum and the provision of necessary durable solutions or other appropriate assistance measures,
  - (iii) encouraging the establishment of appropriate arrangements for the identification of refugees in the countries concerned and,
  - (iv) ensuring humane treatment for refugees and asylum-seekers who, because of the uncertain situation in which they find themselves, feel impelled to move from one country to another in an irregular manner;
- (d) Within this framework, governments, in close co-operation with UNHCR, should
- (i) seek to promote the establishment of appropriate measures for the care and support of refugees and asylum-seekers in countries where they have found protection pending the identification of a durable solution and
  - (ii) promote appropriate durable solutions with particular emphasis firstly on voluntary repatriation and, when this is not possible, local integration and the provision of adequate resettlement opportunities;
- (e) Refugees and asylum-seekers, who have found protection in a particular country, should normally not move from that country in an irregular manner in order to find durable solutions elsewhere but should take advantage of durable solutions available in that country through action taken by governments and UNHCR as recommended in paragraphs (c) and (d) above;
- (f) Where refugees and asylum-seekers nevertheless move in an irregular manner from a country where they have already found protection, they may be returned to that country if
- (i) they are protected there against *refoulement* and
  - (ii) they are permitted to remain there and to be treated in accordance with recognized basic human standards until a durable solution is found for them. Where such return is envisaged, UNHCR may be requested to assist in arrangements for the re-admission and reception of the persons concerned;
- (g) It is recognized that there may be exceptional cases in which a refugee or asylum-seeker may justifiably claim that he has reason to fear persecution or that his physical safety or freedom are endangered in a country where he previously found protection. Such cases should be given favourable consideration by the authorities of the State where he requests asylum;
- (h) The problem of irregular movements is compounded by the use, by a growing number of refugees and asylum-seekers, of fraudulent documentation and their practice of wilfully destroying or disposing of travel and/or other documents in order to mislead the authorities of their country of arrival. These practices complicate the personal identification of the person concerned and the determination of the country where he stayed prior to arrival, and the nature and duration of his stay in such a country. Practices of this kind are fraudulent and may weaken the case of the person concerned;
- (i) It is recognized that circumstances may compel a refugee or asylum-seeker to have recourse to fraudulent documentation when leaving a country in which his physical safety or freedom are endangered. Where no such compelling circumstances exist, the use of fraudulent documentation is unjustified;
- (j) The wilful destruction or disposal of travel or other documents by refugees and asylum-seekers upon arrival in their country of destination, in order to mislead the national authorities as to their previous stay in another country where they have protection, is unacceptable. Appropriate arrangements should be made by States, either individually or in co-operation with other States, to deal with this growing phenomenon.

**No. 65 (XLII) – 1991**

(o) *Recognizes* that the establishment of and access of all asylum-seekers to fair and efficient procedures are important elements in a coherent international strategy for the management and resolution of refugee situations and *recalls* in this connection Conclusion No. 8 (XXVIII) on Determination of Refugee Status, Conclusion No. 15 (XXX) on Refugees without an Asylum Country, Conclusion No. 30 (XXXIV) on the Problem of Manifestly Unfounded or Abusive Applications for Refugee Status or Asylum and Conclusion No. 58 (XL) concerning the Problem of Refugees and Asylum-Seekers who Move in an Irregular Manner from a Country in which They Had Already Found Protection;

**No. 85 (XLIX) – 1998**

(aa) *Stresses* that, as regards the return to a third country of an asylum-seeker whose claim has yet to be determined from the territory of the country where the claim has been submitted, including pursuant to bilateral or multilateral readmission agreements, it should be established that the third country will treat the asylum-seeker (asylum-seekers) in accordance with accepted international standards, will ensure effective protection against *refoulement*, and will provide the asylum-seeker (asylum-seekers) with the possibility to seek and enjoy asylum;

**No. 87 (L) – 1999**

Access to protection

(j) *Reiterates* that the institution of asylum is of crucial importance to the international protection of refugees; *re-emphasizes* the importance of ensuring access to asylum procedures; *recalls* Conclusions No. 15 (XXX) of 1979 and No. 58 (XL) of 1989 on refugees without an asylum country and irregular movement of asylum-seekers; and *affirms*, in this regard, that notions such as "safe country of origin", "internal flight alternative" and "safe third country", should be appropriately applied so as not to result in improper denial of access to asylum procedures, or to violations of the principle of *non-refoulement* ;

(l) *Reaffirms* Conclusion No. 58 (XL) on irregular movements; notes with concern that refugees who have already found and continue to enjoy protection in a first country of asylum continue to move in an irregular manner to other countries on a significant scale; and encourages UNHCR, States and other relevant actors to enhance cooperation to address the causes of such movements, in particular with a view to ensuring treatment of asylum-seekers and refugees in accordance with the highest possible standards of protection in first countries of asylum, and to creating awareness as to the risks and dangers linked to irregular movements, notably exploitation by traffickers; and further encourages UNHCR to work with transit and destination countries to ensure that the protection and assistance needs of such asylum-seekers and refugees are met;

**No. 91 (LII) – 2001**

(f) *Recognizes* the confidential nature of personal data and the need to continue to protect confidentiality; also recognizes that the appropriate sharing of some personal data in line with data protection principles can assist States to combat fraud, to address irregular movements of refugees and asylum-seekers, and to identify those not entitled to international protection under the 1951 Convention and/or 1967 Protocol;

**No. 99 (LV) – 2004**

(w) *Encourages* States, UNHCR and other relevant actors to continue their work in developing other strands of the Convention Plus initiative, including those relating to development assistance and to irregular secondary movements of refugees and asylum-seekers;