

SMUGGLING AND TRAFFICKING

The Executive Committee,

No. 84 (XLVIII) – 1997 – Refugee Children and Adolescents

(b) Urges States and concerned parties to take all possible measures to protect child and adolescent refugees, *inter alia*, by:

(iii) preventing sexual violence, exploitation, trafficking and abuse; addressing the needs and rights of child and adolescent victims through provision of appropriate legal and rehabilitative remedies; and by following up on the Plan of Action of the 1996 Stockholm World Congress on the Sexual Exploitation of Children;

No. 87 (L) – 1999

Access to protection

(1) *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. 89 (LI) – 2000

Taking note of complex features of the evolving environment in which refugee protection has to be provided, including the nature of armed conflict and current patterns of displacement, mixed population flows, the high costs of hosting large numbers of refugees and asylum-seekers and of maintaining asylum systems, the growth in trafficking and smuggling of persons, the problems of safeguarding asylum systems against abuse and of excluding those not entitled to refugee protection, as well as the lack of resolution of long-standing refugee situations;

Noting the discussions in the Standing Committee on the interception of asylum-seekers and refugees, and *recognizing* the importance of adopting comprehensive measures, between all relevant States and in cooperation with UNHCR, international organizations and other appropriate organizations, to deal effectively with irregular migration, trafficking and smuggling of persons, potentially including refugees and asylum-seekers, and ensure in this context that international protection and assistance needs of asylum-seekers and refugees are identified and fully met, consistent with international protection responsibilities, in particular the principle of *non-refoulement*;

No. 90 (LII) – 2001

(s) Strongly condemning the trafficking of persons, especially women and children, which represents a grave violation of their human rights; expressing concern that many victims of trafficking are rendered

effectively stateless due to an inability to establish their identity and nationality status; *calls upon* States to cooperate in the establishment of identity and nationality status of victims of trafficking so as to facilitate appropriate resolutions of their situations, respecting the internationally recognized human rights of the victims.

No. 96 (LIV) – 2003

Bearing in mind that the efficient and expeditious return of persons found not to be in need of international protection is key to the international protection system as a whole, as well as to the control of irregular migration and prevention of smuggling and trafficking of such persons;

Recalling also that the 2000 United Nations Protocol against the Smuggling of Migrants by Land, Sea and Air^[3] sets out the obligation of States parties to facilitate and accept, without undue or unreasonable delay, the return of a person who has been smuggled and who is its national or who has the right of permanent residence in its territory at the time of return;

^[3] Article 18(1).

No. 97 (LIV) – 2003

Concerned about the many complex features of the evolving environment in which refugee protection has to be provided, including the persistence of armed conflict, the complexity of current forms of persecution, ongoing security challenges, mixed population flows, the high costs that may be connected with hosting asylum-seekers and refugees and of maintaining individual asylum systems, the growth in trafficking and smuggling of persons, the problems of safeguarding asylum systems against abuse and of excluding those not entitled to refugee protection, as well as the lack of resolution of long-standing refugee situations;

Recalling the emerging legal framework^[3] for combating criminal and organized smuggling and trafficking of persons, in particular the Protocol Against the Smuggling of Migrants by Land, Sea and Air, which, *inter alia*, contemplates the interception of vessels enjoying freedom of navigation in accordance with international law, on the basis of consultations between the flag State and the intercepting State in accordance with international maritime law, provided that there are reasonable grounds to suspect that the vessel is engaged in the smuggling of migrants by sea;

Noting the saving clauses contained in each of the Protocols^[4] and the reference to the 1951 Convention relating to the Status of Refugees, its 1967 Protocol and the principle of *non-refoulement*;

(vi) Intercepted asylum-seekers and refugees should not become liable to criminal prosecution under the *Protocol Against the Smuggling of Migrants by Land, Sea or Air* for the fact of having been the object of conduct set forth in article 6 of the Protocol; nor should any intercepted person incur any penalty for illegal entry or presence in a State in cases where the terms of Article 31 of the 1951 Convention are met;

^[3] The United Nations Convention Against Transnational Organized Crime, 2000 and its Supplementary Protocols Against the Smuggling of Migrants by Land, Sea and Air; and to Suppress and Punish Trafficking in Persons, Especially Women and Children.

^[4] Article 19 of the Smuggling Protocol and Article 14 of the Trafficking Protocol.

No. 102 (LVI) – 2005

(n) *Notes* UNHCR's global priorities relating to refugee children; *calls on* States to support the efforts of UNHCR in ensuring that the needs of refugee children, particularly unaccompanied and separated children, are fully met through their identification and registration, and through UNHCR's overall protection and assistance activities, including management support, training and monitoring activities; and *reminds* UNHCR of Goal 2, Objective 2 of the Agenda for Protection regarding the convening of an experts meeting focusing on the protection needs of trafficked children;

No. 105 (LVII) – 2006 – Women and Girls at Risk

Recognizing that, while women and girls may be exposed to certain risks, such as trafficking, in any location, the different nature of camp and urban environments can expose women and girls to different protection risks and that in camps, for example, their freedom of movement and capacity to earn a livelihood may be more restricted and they may be more exposed there to sexual and gender-based violence (SGBV), whereas in urban situations, they may be less able to exercise their rights effectively, to access protection and services or reach UNHCR or implementing partner offices,

(j) Secure environments are to be established and strengthened, including by partnerships and actions to:

v. strengthen justice systems to uphold the rights of women and girls and bring perpetrators of SGBV to justice, combat trafficking and protect victims; and

No. 106 (LVII) – 2006 – Identification, Prevention and Reduction of Statelessness and Protection of Stateless Persons

Prevention of Statelessness

(l) *Encourages* States to seek appropriate solutions for persons who have no genuine travel or other identity documents, including migrants and those who have been smuggled or trafficked, and where necessary and as appropriate, for the relevant States to cooperate with each other in verifying their nationality status, while fully respecting the international human rights of these individuals as well as relevant national laws;

(m) *Calls upon* States Parties to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and the Protocol against the Smuggling of Migrants by Land, Sea and Air, both supplementing the United Nations Convention against Transnational Organized Crime, to respect their obligation to assist in verifying the nationality of the persons referred to them who have been smuggled or trafficked with a view to issuing travel and identity documents and facilitating the return of such persons; and, *encourages* other States to provide similar assistance;

No. 107 (LVIII) – 2007 – Children at Risk

Identification of children at risk

(c) *Calls on* States, UNHCR and other relevant agencies and partners to put in place modalities, as appropriate, for early and continuous identification of children at heightened risk. Risk factors that put children in a situation of heightened risk can include both risks in the wider protection environment and risks resulting from individual circumstances, taking into account the cumulative effects of being exposed to several risk factors, such as:

ii. Individual risk factors, including, but not limited to: unaccompanied and separated children, particularly those in child-headed households as well as those accompanied by abusive or exploitative adults; stateless children; adolescents, in particular girl mothers and their children; child victims of trafficking and sexual abuse, including pornography, pedophilia and prostitution; survivors of torture; survivors of violence, in particular sexual and gender-based violence and other forms of abuse and exploitation; children who get married under the age specified in national laws and/or children in forced marriages; children who are or have been associated with armed forces or groups; children in detention; children who suffer from social discrimination; children with mental or physical disabilities; children living with or affected by HIV and AIDS and children suffering from other serious diseases; and children out of school;

Prevention, response and solutions

(g) *Recommends* that States, UNHCR and other relevant agencies and partners work in close collaboration to prevent children from being put at heightened risk, and respond, as necessary, through the general prevention, response and solution measures listed non-exhaustively below:

viii. Develop child and gender-sensitive national asylum procedures, where feasible, and UNHCR status determination procedures with adapted procedures including relevant evidentiary requirements, prioritized processing of unaccompanied and separated child asylum-seekers, qualified free legal or other representation for unaccompanied and separated children, and consider an age and gender-sensitive application of the 1951 Convention through the recognition of child-specific manifestations and forms of persecution, including under-age recruitment, child trafficking and female genital mutilation;

No. 108 (LIX) - 2008

(e) *Welcomes* the discussions in the High Commissioner's Dialogue on Protection Challenges in December 2007, and *affirms* the mandated role of UNHCR in the identification of refugees and other persons of concern to the Office in mixed migratory movements with a view to meeting their international protection needs; *recognizes* the importance of enhanced cooperation among States, UNHCR, international agencies, including the International Organization for Migration, and other relevant actors, to address the complex problems arising in the context of mixed migratory movements including people smuggling and trafficking in persons;