Differentiated processes and procedures

CHAPTER 6

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Introduction

The 10-Point Plan recommends the establishment of differentiated processes and procedures for various categories of persons travelling as part of mixed movements. This allows tailored and appropriate responses to be provided according to the respective needs and profiles of the persons involved.

The range of more or less formalized procedures that can be made available depends on the profile and numbers of arrivals, the legal framework and socio-economic capacity of the host country, and the support of the international community. Procedures can include inter alia:

- asylum procedures for persons seeking international protection;
- special protection mechanisms for trafficked persons;
- child protection systems;
- family tracing;
- procedures to identify women and girls at heightened risk;
- support for persons with physical and mental disabilities, individuals who have experienced torture or trauma, and elderly persons;
- avenues for regularization in the host country or migration options that facilitate the onward movement of persons in search of economic opportunities and those who wish to join their families abroad;
- assisted voluntary return (AVR) for those who are neither in need of international protection nor have compelling humanitarian reasons to stay in the host country and who wish to return to their countries of origin; and
- compulsory return for persons without international protection needs as a measure of last resort.

The objectives and outcomes of these processes and procedures differ: not all are geared towards legalizing a person's stay in the host country. As this list suggests, not every person can be provided with a "positive" outcome that meets his/her aspirations. However, establishing alternative procedures, in addition to asylum procedures or return, can assist authorities to manage mixed movements fairly, address any immediate needs of arrivals and facilitate longer-term solutions. From a protection perspective, the capacity to identify specific needs and to direct individuals who are not seeking international protection to alternative mechanisms can contribute to more effective and efficient asylum procedures.

As mentioned in Chapter 5, while the categorization of different groups of people can be a useful tool to ensure that responses to mixed movements are more effectively targeted, categorization is not an end in itself. Persons travelling within mixed movements may have multiple needs and fit into several categories. For example, trafficked persons and unaccompanied or separated children may also need international protection. In such cases, asylum procedures can be conducted alongside other processes, including support and services to meet immediate needs. New categories of needs may also arise after arrival. For these reasons, it is appropriate for responses ultimately to be informed by a person's individual needs, rather than according to their categorization. Establishing well-functioning referral systems between different processes and coordination mechanisms between all relevant actors (e.g., government agencies, NGOs, international organizations, legal advisors, social workers, health care providers) will increase

the likelihood that the most appropriate outcome is provided for each individual. Irrespective of the category/ies into which a person falls, every person is entitled to be treated in a humane and dignified manner, consistent with international human rights standards.

This Chapter provides examples of a number of procedures, including asylum processes and procedures to identify the needs of children, women at heightened risk and trafficked persons. The asylum examples focus on State procedures but also include UNHCR's own RSD mechanisms. The processes and procedures presented are not exhaustive. Additional mechanisms may exist in some countries.

Mechanisms to address immediate medical and psychosocial needs, which are generally components of reception arrangements, are outlined in Chapter 4. Longer-term solutions, including local integration, legal onward movement and return, are outlined in Chapters 7, 8 and 9 respectively.

Operationalizing differentiated processes and procedures: Suggestions for stakeholders and support UNHCR can provide to partners

Suggestions for stakeholders

- Encourage and facilitate the development of legal and policy frameworks for the protection of refugees, children, women and girls at heightened risk, trafficked persons, and other persons with specific needs.

- Develop specific child protection systems; conduct a "best interests determination" as soon as possible to ensure that all action taken is in the child's best interests.

- Develop family tracing mechanisms with a particular focus on unaccompanied children.

- Develop procedures for identifying women and girls at risk, and address their specific protection needs.

- Identify trafficked persons, and establish a coordinated system to assess their international protection needs.

- Develop case management and procedural tools to increase the efficiency of the asylum process by, for example, undertaking caseload analysis, analysing country of origin information and developing suitable accelerated procedures with full respect for the principle of *non-refoulement.*

- Ensure that all processes and procedures are sensitive to age, gender and diversity.

- Establish mechanisms for coordination between different stakeholders and for cross-referral between processes and procedures.

Support UNHCR can provide to partners

- Raise awareness about the protection needs of different categories of persons travelling as part of mixed movements.

- Support States, other international organizations, and relevant NGOs in establishing or strengthening differentiated processes and procedures.

- Provide advice and support on asylum procedures, consistent with its supervisory role under Article 35 of the 1951 Convention (on an ad hoc basis or through a formal consultative processes).

- Develop, together with relevant partners, standard operating procedures to enhance cooperation and coordination.

- Identify and protect refugees, children of concern, trafficked persons, women and girls at (heightened) risk, and other persons with specific needs where UNHCR is undertaking screening and RSD.

- Assist with the development of case management tools, and support asylum procedures in emergency and large-scale influx situations.

6.1. Child protection systems

Children make up a significant proportion of those travelling as part of mixed movements and are often exposed to a wide range of protection risks.

A comprehensive "child protection system" consists of laws, policies, structures, procedures and practices that are designed to respond to the specific needs of children and prevent child abuse, neglect, exploitation and violence. Instead of treating each category or form of risk for children separately (e.g. child trafficking or separation from family members), an effective child protection system considers all the risks faced by children in a holistic and comprehensive manner. It is important that the various elements of the child protection system are complementary and coordinated across a range of sectors.

National child protection systems are most effective when they provide non-discriminatory access to all children within the jurisdiction of a State – including victims of trafficking, refugee and stateless children. Child protection systems are particularly important for unaccompanied/separated children and/or children seeking international protection. Relevant processes and procedures to assist children travelling as part of mixed movements can include mechanisms to address the child's immediate needs, the appointment of a legal representative and/or guardian, age assessments, family tracing and identification of a solution based on a "best interests determination". Child-friendly interviews conducted by experienced staff can help, inter alia, to identify possible cases of trafficked children and facilitate family reunification. They can also be used to inform children of their rights, including the right to seek asylum. Coordination and referral mechanisms between the child protection system and asylum procedures are important to ensure that the international protection needs of children are recognized and met. (See also child repatriation in Chapter 9.)

COUNCIL OF EUROPE: LIFE PROJECTS PROGRAMME
2009 – 2010

A. Background and Rationale

On 12 July 2007, the Council of Europe Committee of Ministers adopted the Recommendation on Life Projects for Unaccompanied Migrant Children ("the Recommendation"). The Recommendation promotes "life projects" as a tool to ensure that all decisions and actions relating to unaccompanied children are based on the best interests of the child and geared towards ensuring his/her protection, safety and personal development.

The objectives of the programme are to ensure social integration, to enhance personal and cultural development, to provide adequate housing, health care, education, and vocational training, and to consider future employment of unaccompanied children.

Life projects promote open dialogue with unaccompanied children to better inform best interests determinations. Every life project is based on a comprehensive, integrated and multidisciplinary approach, taking into account the specific needs of the child. An agreement between the guardian of the particular unaccompanied child and the competent authority provides the parameters for projects to develop and strengthen the necessary skills of the child to ensure that s/he becomes an independent, responsible and active member of host communities.

Andorra, Belgium (Walloon Region), France and Italy funded the implementation of these life projects at the national level for the period 2009-2010.

B. Actors

- European Committee on Migration; and
- participating countries (namely Andorra, Belgium, Bulgaria, Spain, France, Italy, Norway, Netherlands, Portugal and Switzerland).

C. Actions

- Promote the implementation of life projects at the national level through pilot tests;
- inform and train national experts and professionals to provide advice on the policy objectives and practical application of life projects to government officials in participating countries;
- identify examples of good practice for addressing the needs of unaccompanied children at the national level, and develop techniques to address common challenges;
- prepare leaflets on the risks associated with the cross-border movement of unaccompanied minors and the benefits of life projects;
- develop a training manual based on lessons learned to be used as a practical tool to implement life projects; and
- develop measures to extend the experience of implementing life projects in participating countries to other Council of Europe Member States confronted with the phenomenon of the cross-border movement of unaccompanied minors.

D. Review

The endorsement by the Council of Europe has led to the implementation of life projects in a number of countries. The initiative is seen as contributing to the identification of durable solutions for unaccompanied children themselves and for Council of Europe Member States. Since participating countries have different capacities and legislation in place, it has been difficult to ensure systematic implementation of the life projects. The evaluation of pilot tests at the national level, however, has sought to establish a common methodology that can be used as a practical standard-setting tool in all Member States.

E. Further Information

Annex 1 – Council of Europe, Explanatory Memorandum to the Recommendation CM/Rec(2007)9 of the Committee of Ministers to Member States on Life Projects for Unaccompanied Migrant Minors, 2007

See also: http://www.coe.int/t/dg3/migration/Activities/Mg_s_mna_en.asp.

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MEXICO: CHILD PROTECTION OFFICERS AND THE INTER-INSTITUTIONAL ROUNDTABLE ON UNACCOMPANIED CHILDREN AND WOMEN MIGRANTS 2007 – PRESENT

A. Background and Rationale

Unaccompanied children make up a considerable percentage of persons arriving as part of mixed movements across Mexico's southern border. Some are fleeing domestic or other types of violence in their home countries; others are en route to join family members, often in the USA. Some are refugees, but are unlikely to know of their right to seek asylum. Unaccompanied children are among the groups most at risk, including particular risks of abuse and human trafficking, in the region.

To address the large number of unaccompanied children on the move, the Government of Mexico, with the assistance of international agencies, established:

- the Inter-institutional Roundtable on Unaccompanied Children and Women Migrants; and
- Child Protection Officers (CPOs).

B. Actors

- Agencies in Mexico (namely the Department of Family Development, Mexican Commission to Assist Refugees, National Human Rights Commission, National Institute for Migration, Secretary of Health, Secretary of Public Education, Secretary of Social Development);
- IOM;
- UNICEF;
- UNIFEM; and
- UNHCR.

C. Actions

Inter-Institutional Roundtable

- The Inter-Institutional Roundtable was established in March 2007 by the Under-Secretary for Population, Migration and Religious Affairs at the Mexican Ministry of Interior. The members of the Roundtable include government officials and international organizations with an interest in migration.
- A technical group within the Roundtable identifies priorities, proposes joint action and coordinates strategic activities to be discussed during Roundtable meetings.
- The Roundtable meets regularly in Mexico City to evaluate inter-institutional strategies and coordination mechanisms in relation to unaccompanied children and women migrants.
- The Roundtable serves as a platform to exchange information and agree upon policies and mechanisms to guarantee the rights and protection of unaccompanied children and women migrants.
- The Roundtable played a critical role in establishing a corps of Child Protection Officers (CPOs), including through assistance with their training.

CPOs

- The Government of Mexico, with the support of UNHCR and IOM, appointed 68 CPOs in early 2007 to serve as focal points for unaccompanied children. The CPOs are a corps of migration officials who work within the National Institute for Migration.

- CPOs undergo specialized training and are tasked with providing holistic assistance to unaccompanied children. Their responsibilities include: informing children of their rights, including their right to seek asylum; identifying children who may be in need of international protection and referring them to the proper procedures; and following cases to their conclusion.

- IOM and UNHCR are involved in training and capacity-building courses at the National Institute for Migration for CPOs.

- UNHCR has held a number of training sessions for the CPOs, including sessions on identifying potential international protection needs, developing skills to interview children, best interests determination procedures, and proper channelling of children to the relevant government agencies and UNHCR. UNHCR has designated staff to serve as CPO focal points.

- Key actors from government and international organizations jointly drafted a flowchart on the protection of unaccompanied children to serve as a model to improve identification and referral to appropriate channels.

D. Review

Since 2007, the number of CPOs has increased from 68 to 327. Their presence along the entire southern Mexican border has led to an increase in the number of successful asylum claims made by unaccompanied children in Mexico and to a reduced risk of trafficking, abuse and exploitation of children. The fact that the CPOs form part of the National Institute for Migration facilitates access to information on unaccompanied children. However, their position as migration officials and members of the agency tasked with controlling access to the territory and effecting deportations, at times, has hindered their independence and weakened their ability to advocate on behalf of the children in their care.

The Inter-institutional Roundtable has brought together a number of key actors to address the protection needs of unaccompanied minors. The Roundtable provides a venue for information sharing and collaboration between actors, as well as follow-up advocacy and outreach activities in cooperation with a civil society anti-trafficking network working along the southern Mexican border.

E. Further Information

Annex 2 – Child Protection Officers, Protection Model for Unaccompanied Children and Adolescents – Informational Sheet

Annex 3 – Excerpts from Mexico's Administrative Instruction regarding Child Protection Officers within the National Institute for Migration (Circular: INM/CCVM/CRII/00325), 2009

Annex 4 – UNICEF, *Protecting Children Migrating Alone – Challenges and Advances in Mexico*, 2009

Annex 5 – UNHCR, *The International Protection of Unaccompanied or Separated Children Along the Southern Border of Mexico, 2006-2008*, 2008

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USA: NEW PROTECTION FOR TRAFFICKED AND UNACCOMPANIED ALIEN CHILDREN 2008 – PRESENT

A. Background and Rationale

The USA Congress passed the William Wilberforce Trafficking Victims Protection Reauthorization Act (TVPRA) in 2008, authorizing new measures to combat human trafficking. The TVPRA, inter alia, extended interim benefits and assistance to child trafficking victims. It also included a number of provisions related to the processing of unaccompanied children arriving in the USA.

B. Actors

- Administration for Children and Families (ACF);
- Department of Homeland Security (DHS);
- Department of Health and Human Services (HHS);
- HHS Anti-Trafficking in Persons Division (ATIP); and
- Office of Refugee Resettlement (ORR).

C. Actions

With respect to children, the TVPRA:
- exempts trafficked children from the requirement to cooperate with law enforcement in order to receive a temporary residence permit (T-visa);
- implements screening procedures to ensure that unaccompanied children from contiguous countries have had the opportunity to access the asylum procedure and receive protection against trafficking before being considered for voluntary repatriation;
- provides assistance to presumed trafficked children equivalent to that made available to refugee children for a period up to 90 days (which may be extended for an additional 30 days);
- ensures that children with Special Immigrant Juvenile Status (SIJS) visas are eligible for certain services (e.g. shelter, medical care, assistance with pro bono legal services, and other support services);
- enhances protection and safety assessments for unaccompanied children during repatriation procedures; and
- authorizes HHS to appoint child advocates for vulnerable children and mandates that HHS ensures safe placements in the best interests of the child pending immigration proceedings.

D. Review

The TVPRA extends certain benefits to unaccompanied children who have been identified as trafficked or at risk of trafficking. HHS is responsible for providing training to federal, State and local officials to improve identification and protection of trafficked children. The TVPRA also includes a number of provisions relating to the processing of unaccompanied children arriving in the USA. The effectiveness of some of the arrangements adopted as part of the TVPRA is still to be assessed.

E. Further information

The William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 is available at: http://www.justice.gov/olp/pdf/wilberforce-act.pdf.

EU: Comprehensive Indicators for the Protection, Respect and Promotion of the Rights of the Child

The EU Agency for Fundamental Rights (FRA) developed the Comprehensive Indicators for the Protection, Respect and Promotion of the Rights of the Child in the EU (the Comprehensive Indicators) as an initial toolkit to evaluate the impact of EU law and policy on children's status and experience. The Comprehensive Indicators complement and build on previous efforts to develop child indicators at the EU level which extend across specific areas of substantive law and policy, including migration and asylum issues.

Annex 6 – Developing Indicators for the Protection, Respect and Promotion of the Rights of the Child in the European Union: Summary Report, 2009

West Africa: Model Bilateral Agreement on Cooperation and Mutual Legal Assistance to Protect Children from Transnational Border Trafficking

The Model Bilateral Agreement on Cooperation and Mutual Legal Assistance to Protect Children from Transnational Border Trafficking in West Africa (the Agreement) was developed by UNICEF in 2004. The Agreement emphasizes that the best interests of the child are a paramount consideration and provides for cooperation and mutual legal assistance on identification, care, rehabilitation, family reunification, social reinsertion and repatriation of trafficked children, as well as with the investigation and criminalization of child trafficking, the prosecution of traffickers of children and ancillary proceedings related to the crime of child trafficking. The relevant protection clauses demonstrate that child protection systems are essential to prevent child trafficking and facilitate assistance to rehabilitate trafficked children.

Annex 7 – UNICEF Regional Office for West and Central Africa, Model Bilateral Agreement on Cooperation and Mutual Legal Assistance in Protecting Children from Trans-border Trafficking, August 2004

See also: Chapter 9 – Programme for the Protection and Reinsertion of Isolated Children in the Transnational Context of West Africa, 2005 – 2011.

Action for the Rights of Children (ARC) Resource Pack

Action for the Rights of Children (ARC) Resource Pack was developed in 2009 through collaboration between various international organizations.

The toolkit provides information and training materials to strengthen the capacity of humanitarian actors to:

• tackle the root causes of specific risks faced by children;

• build effective child protection systems for use in emergencies and long-term development; and

• ensure that activities do not inadvertently compromise the rights or safety of children.

The training modules cover the following themes: abuse and exploitation; education; children with disabilities; sexual and reproductive health; landmine awareness; unaccompanied and separated children; and children associated with armed forces or armed groups.

The ARC Resource Pack is available at:
http://www.unhcr.org/refworld/publisher/ARC.html.

Inter-agency Guiding Principles on Unaccompanied and Separated Children

The Inter-agency Guiding Principles on Unaccompanied and Separated Children were developed in 2004 by a group of international organizations and NGOs.

They provide a comprehensive protection framework to address the rights and needs of unaccompanied and separated children, based on international human rights, humanitarian and refugee law. They also provide guidance on the development of mechanisms for support and coordination between different stakeholders to best address the needs of children and illustrate good practice based on lessons learned. They focus on a variety of issues, from assisting children during emergencies to family tracing and reunification.

Annex 8 – Inter-agency Guiding Principles on Unaccompanied and Separated Children, 2004

Manual on Exchange of Information and Best Practices on First Reception, Protection and Treatment of Unaccompanied Minors

The Manual on Exchange of Information and Best Practices on First Reception, Protection and Treatment of Unaccompanied Minors was produced by IOM as part of the project "Exchange of Information and Best Practices on First Reception, Protection and Treatment of Unaccompanied Minors", which aimed to improve the efficiency of national agencies and service providers in addressing the needs of unaccompanied minors.

The project used a "bottom-up" approach, gathering information from "first contact" service providers to inform policy makers in the six participating countries. As a result of the project, cooperation and information exchange increased between government agencies in the participating countries and a manual on best practices and recommendations was published to inform policy debate and legislative developments.

Annex 9 – IOM, *Exchange of Information and Best Practices on First Reception, Protection and Treatment of Unaccompanied minors: Manual of Best Practices and Recommendations*, 2008

Separated Children in Europe Programme (SCEP): "Statement of Good Practice"

The Separated Children in Europe Programme (SCEP) developed a "Statement of Good Practice" to reflect the dynamic progression of human rights and related issues concerning separated children. It provides a comprehensive set of principles and good practice recommendations and serves as a framework for action and advocacy to implement policies and practices relating to separated children.

Annex 10 – Save the Children, UNHCR and UNICEF, *Statement of Good Practice*, 4th Edition, 2009

6.2. Family tracing

Family members can become separated during travel for a number of reasons. While family tracing is relevant for all family members, regardless of age, it is of utmost importance for unaccompanied children, including children seeking asylum. Family tracing usually leads to family reunification; however, safeguards are needed to ensure that children are not returned to a family or custodial situation where they would face abuse or neglect.

ICRC/IFRC Support in Restoring Family Links

For more than one hundred years, the ICRC has been working in close collaboration with Red Cross and Red Crescent national societies to help individuals restore family links. In order to fulfil this objective, relevant agencies collect information about missing persons, exchange family updates, and develop tools to allow individuals to determine the whereabouts of family members (e.g. through the transmission of documents, telephone services, and purpose-built websites). The ICRC also supports mechanisms to clarify the fate of persons who remain unaccounted, registers and tracks individuals, and issues travel documents and attestations to facilitate the reunification of family members.

Annex 11 – Guiding Principles/Model Law on the Missing - Principles for Legislating the Situation of Persons Missing as a Result of Armed Conflict or Internal Violence: Measures to Prevent Persons from Going Missing and to Protect the Rights and Interests of the Missing and Their Families, 2009

ITALY: IOM PROJECT ON FAMILY TRACING OF UNACCOMPANIED MINORS
2008 – PRESENT

A. Background and Rationale

The Project on Family Tracing of Unaccompanied Minors ("Project on Family Tracing") assists the Committee for Foreign Minors in Italy to find sustainable solutions for unaccompanied minors based on the principles of the best interests of the child and family unity.

B. Actors

- Committee for Foreign Minors within the Ministry of Social Affairs, Labour and Solidarity in Italy;[1]
- consular representatives of the countries of origin of the unaccompanied minors;
- Italian local administrations and civil society; and
- IOM in both Italy and in countries of origin.

C. Actions

- Raise awareness and disseminate information on the protection and assistance available in Italy to unaccompanied minors and all relevant actors working at the local level;
- implement family tracing schemes, based on the profile of the child and the information provided by the Committee for Foreign Minors;

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1 The Committee for Foreign Minors is an inter-ministerial body (of which UNHCR is a member) which addresses the needs of children who find themselves in Italy without the care and representation of parents or other legal guardians and who are not seeking asylum.

- decide on family reunification or other solutions based on the outcome of the family tracing scheme, country of origin information and the best interests of the child;
- support the family reunification of unaccompanied children and/or foster care placements with responsible authorities through coordination with existing structures;
- provide financial support depending on the type of reintegration assistance (e.g. education and/or labour reintegration assistance) chosen by the minor; and
- develop an individual education and/or labour reintegration plan in collaboration with the minor, according to his/her expectations and skills, based on information collected by IOM missions and in cooperation with the family of the minor.

D. Review

The Project on Family Tracing contributes to finding sustainable solutions for unaccompanied children and providing them with safety and protection. The establishment of a coordination network in the country of origin (or a relevant third country) helps support family tracing activities and provide assistance on foster care issues for the reintegration of minors returning from Italy. Collaboration between the Committee for Foreign Minors and local agencies that provide assistance to unaccompanied foreign minors in Italy has helped in the provision of assistance and protection to unaccompanied minors. However, there is a need to harness the full potential of civil society to advocate for better assistance to unaccompanied minors in Italy.

E. Further Information

Annex 12 – European Migration Network, *Unaccompanied Minors: Quantitative Aspects and Reception, Return and Integration Policies: Analysis of the Italian Case for a Comparative Study at the EU Level*, 2009

Inter-agency Child Protection Information Management System: Database

In 2005, Save the Children (STC), the International Rescue Committee (IRC) and UNICEF developed the Inter-Agency Child Protection Information Management System – Database ("the inter-agency database").

The inter-agency database promotes a coordinated approach in order to gather information for family tracing and reunification from rapid registration, tracing, verification, reunification and follow-up activities. It promotes best practices by using standard forms and guiding principles developed by the Inter-agency Working Group on Separated Children. In addition to family tracing activities, the database also serves as a case management and information management tool.

The inter-agency database has been used by international and national NGOs and governmental organizations in 13 countries, namely Burundi, Central African Republic, Chad, Côte d'Ivoire, Guinea, Indonesia, Kenya, Liberia, Myanmar, Nepal, Sri Lanka, Sudan, Uganda.

For further information, see:
http://www.crin.org/bcn/details.asp?id=19085&themeID=1005&topicID=1032.

6.3. Procedures for identifying women and girls at risk

Women and girls traveling as part of mixed movements are exposed to a range of risk factors that can result in violations of their rights. These risks can result from structural causes, such as limited access to services, information or assistance, as well as dependency or poverty. They can also be attributed to the individual's particular circumstances (e.g. their civil status or position in a group, previous exposure to sexual and gender-based violence (SGBV) or other forms of violence, and the need for specific health care or other support).

Algeria: "SOS Femmes en détresse" Shelter for Women Victims of Violence

The "SOS Femmes en détresse" Shelter for Women Victims of Violence was opened by an Algerian NGO in 1992. During the civil war in Algeria, many women sought refuge with their children in the reception centre. Sexual violence was, and remains, a taboo subject in Algeria, but the NGO succeeded in creating an environment of trust that facilitated the provision of psychosocial assistance to victims of sexual and gender-based violence (SGBV).

"SOS Femmes en détresse" has been working with UNIFEM, organizing joint awareness-raising sessions on SGBV for policemen, military officers and doctors. Based on their experience with Algerian women, they broadened the scope of their work to include migrant and refugee women, many of whom also experienced violence.

The association signed an agreement with UNHCR to provide emergency shelter and assistance to asylum-seeking women who have been victims of SGBV or domestic violence.

Costa Rica: Free Legal Assistance and Psychosocial Services at the "Casa de Derechos" Community Centre

In 2007, UNHCR and the Municipality of Desamparados, which has a large migrant and refugee population (approximately 25 per cent of the total city population), concluded a cooperation agreement to address protection needs in the city. One result of this agreement was the implementation of Free Legal Assistance and Psychosocial Services, provided by UNHCR to victims of domestic violence, at the "Casa de Derechos" Community Centre in Costa Rica.

Services have been provided successfully to support, inter alia, the legal and emotional needs of a large number of domestic violence victims, including many migrants and refugees in the city.

Libya: The Identification and Resettlement of a Group of Detained Eritrean Refugee Women

The identification and resettlement of a group of Eritrean refugee women detained in Libya was undertaken by UNHCR with the support of the Government of Italy. Women with specific needs who were victims of, or at risk of, violence (including sexual abuse) during their journey in search of international protection were released from a detention centre in Libya and resettled in Italy.

For further details, see Chapter 7.

Malaysia: The Women's Aid Organization (WAO)

The Women's Aid Organization (WAO) in Malaysia provides shelter to battered women and children. Qualified social workers offer counselling sessions and provide legal information to women, either by telephone or through face-to-face meetings. The WAO's Sexual Assault Helpline is a safe and confidential forum for survivors of sexual violence where they can receive moral support and counselling. A one-day free clinic offers health care and advice to pregnant women and young mothers. The WAO conducts counselling sessions with asylum-seeking and refugee women in Kuala Lumpur.

MALTA: SEXUAL AND GENDER-BASED VIOLENCE PREVENTION AND RESPONSE IN THE CONTEXT OF MEDITERRANEAN ARRIVALS 2007 – 2008

A. Background and Rationale

The project entitled, "Sexual and Gender-based Violence Prevention and Response in the Context of Mediterranean Arrivals" ("SGBV Prevention Project"), was a pilot initiative launched in 2007 in Malta. The nine-month project aimed to address the particular risks faced by refugee women and unaccompanied minors travelling within mixed movements to Malta. The project was based on the Participatory Assessment Exercise carried out by UNHCR in 2005 in cooperation with the Maltese authorities and NGOs.

B. Actors

• Jesuit Refugee Service-Malta;
• UNHCR; and
• cultural mediators.

C. Actions

• Individual case work was carried out in detention and open centres with sexual and gender-based violence (SGBV) survivors.
• Legal assistance and/or psychological support were offered to SGBV survivors, as well as referral to appropriate services.
• Awareness-raising activities on the protection needs of female refugees and SGBV survivors were carried out with Maltese officials.
• Community-based initiatives on health issues, including sexual and reproductive health, gender issues, cultural practices, as well as the legal rights and obligations of SGBV survivors and community members were implemented in Malta, including in detention centres, to prevent SGBV cases.

D. Review

Individual case work revealed that, in many cases, the SGBV incident occurred years before arrival in Malta. Although it was a cause of psychological trauma, it was not the most pressing problem for the individual concerned. Rather, individuals were predominantly concerned with the regularization of their stay and finding employment and accommodation. The use of cultural mediators helped to open communication channels and gave the SGBV survivors confidence to reveal sensitive information. Due to the short duration of the project and limited resources, monitoring and follow-up of SGBV cases did not occur during the project duration.

Annex 13 – Jesuit Refugee Service Malta, *"Try to Understand": Outcomes of Project on Sexual and Gender-based Violence among Immigrants*, 2008

The Heightened Risk Identification Tool (HRIT)

The Heightened Risk Identification Tool (HRIT) was developed in 2008 to enhance the effectiveness of UNHCR and NGO partners in identifying persons of concern who are at heightened risk. It links community participation with individual risk assessment, facilitates protection interventions and raises awareness of the types of risk faced by persons of concern. It includes specific questions on women and girls, children and adolescents, and older persons. It can be used in urban, camp as well as other operational contexts.

A second edition was published in June 2010. It available at:
http://www.unhcr.org/refworld/docid/4c46c6860.html.

6.4. Procedures to protect trafficked persons who are not refugees

Some States have established special protection systems for trafficked persons who do not need international protection. However, in many countries, trafficked persons are still treated as victims of crime and the support and assistance offered (e.g. shelter, counselling and temporary residence permits) is short-term. More recently, some States have granted trafficked persons longer-term residence permits and access to services under certain conditions.

Some of the most effective systems to assist trafficked persons are led by an inter-departmental coordination unit that brings together relevant government agencies, international organizations and representatives from civil society. These systems have well-functioning mechanisms to refer trafficked individuals to other processes and procedures, when necessary, including to the asylum system.

COSTA RICA: NATIONAL COALITION AGAINST SMUGGLING OF MIGRANTS AND TRAFFICKING IN PERSONS
2005 – PRESENT

A. Background and Rationale

In 2005, Costa Rica set up a National Coalition Against Smuggling of Migrants and Trafficking in Persons ("the National Coalition") to strengthen all measures aimed at preventing, combating, punishing and eradicating these transnational crimes.

B. Actors

Full members in Costa Rica
- The Ministries of Foreign Affairs, Health, Interior and Public Security, Justice, Labour and Social Security, and Public Education, as well as the National Institute for Children and the National Institute for Women; and
- the Ombudsperson's Office.

Members with observer status
- IOM and UNHCR; and
- civil society organizations.

C. Actions

- Adopted a Protocol for the Repatriation of Child Victims of Trafficking ("the Protocol") that aims to identify the competent authorities and their roles in cases where repatriation is deemed the appropriate response, and that recognizes the right to seek asylum and includes a saving clause in line with Article 14 of the 2000 Palermo Protocol;[2]
- established an Immediate Response Team to handle and coordinate the protection of trafficked persons;
- organized trainings on international refugee law and on the protection of trafficked persons for border officials at airports and with public defenders and State attorneys; and
- advocated for the improvement of local legislation on human trafficking with a particular emphasis on incorporating protection safeguards for trafficked persons who may also have international protection needs.

D. Review

The National Coalition has created an open dialogue on anti-trafficking initiatives and a basis for concrete policy and operational development. Training activities have raised awareness about human trafficking and improved coordination among key actors.

E. Further information

Annex 14 – Costa Rica, Executive Decree No. 34199-G-MSP-J-MEP-MTSS-RREE establishing the national coalition against trafficking in migrants and persons, 12 March 2007, also available at:
http://www.acnur.org/biblioteca/pdf/6050.pdf.

Annex 15 – IOM and UNICEF Costa Rica, National Protocol on the Repatriation of Children and Adolescent Victims of Human Trafficking, 2007 (in Spanish), also available at:
http://www.acnur.org/biblioteca/pdf/5570.pdf.

Côte d'Ivoire: Local Child Protection Commissions

Twenty Local Child Protection Commissions have been established in Côte d'Ivoire in the refugee populated areas of Tabou and Guiglo, to monitor and report on child labour, human trafficking and other protection issues, particularly in cocoa and coffee plantations.

UNHCR provides training and material support to the local protection commissions and to the community members to address child protection issues, including child labour, human trafficking and sexual abuse. UNHCR has developed small-scale programmes targeting refugees, IDPs and host communities. Sensitization campaigns and focus group discussions have been organized in communities with parents, children and community leaders to discuss protection issues.

In 2008, UNHCR's implementing partner, Afrique Secours Assistance, entered into an information agreement with an agricultural company, PALMCI, in Tabou to stop the recruitment of children on palm farms. The local protection commissions successfully persuaded parents in Tabou to send their children to school instead of letting them work in the fishing industry.

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2   Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime (2000).

NORWAY: IDENTIFICATION AND PROTECTION OF VICTIMS OF TRAFFICKING
2008

A. Background and Rationale

Norway established specific procedures for the protection of both asylum-seekers and trafficked persons and created a National Coordination Unit to protect and assist them.

The Norwegian system differentiates between the identification of possible victims of trafficking (VoTs) and confirmation of VoT status. While all organizations or individuals can identify possible victims, only specific government entities can confirm VoT status.

The 2008 Immigration Act, which entered into force 01 January 2010, includes two important modifications to the Norwegian system. One provision stipulates that a VoT may be considered a member of a particular social group, one of the grounds for persecution in the 1951 Convention. The other provision stipulates that if a VoT is ineligible for refugee status, s/he may qualify for a form of subsidiary protection on humanitarian grounds.

B. Actors

• Child Protection Service, Norway;

• the National Coordination Unit for Victims of Trafficking (KOM), which is managed by the National Police Directorate and is comprised of representatives from the police, health, labour, immigration and justice sectors, as well as child welfare institutions, labour unions, employer agencies and NGOs in Norway;

• NGOs [namely the Women's Shelter *(Krisesentersekretariatet)*]; and

• the Norwegian Directorate of Immigration (UDI).

C. Actions

• Provide an integrated, inter-disciplinary, high-level unit linking the different agencies involved in dealing with trafficked persons;

• offer a range of services (e.g. shelter, health care and psychological support, social services, free legal aid, counselling, vocational training and assistance with repatriation), during a six-month "reflection period", to persons identified as possible VoTs;

• issue a one-year work and residence permit, which can be renewed for one additional year, to those VoTs who agree to testify in criminal proceedings;

• engage in routine discussions with all VoTs, soon after they have been identified, to enquire whether they wish to file a complaint with the police, and also discuss during legal counselling the possibility of claiming asylum;

• provide training on trafficking issues for police and staff from UDI who interview VoTs; and

• provide legal services to child VoTs who, under the age of 18, have the same rights as minor nationals under the Child Welfare Act in Norway and who are generally not deported even if they have been denied asylum but, instead, are very often granted residence on humanitarian grounds after the Norvwegian Immigration Act unless relatives or guardians are identified in the country of origin.

D. Review

The new Immigration Law explicitly provides that VoTs may be eligible for refugee status, minimizing the risk of *refoulement* for VoTs with international protection needs. KOM has developed national guidelines on the identification of VoTs, promoted inter-agency cooperation to assist and protect VoTs, and developed a national system for safe voluntary return. It also provides assistance and guidance to local actors, when needed, and organizes training sessions on human trafficking for police and other government authorities.

National and international cooperation, however, needs further strengthening as well as an early warning system and the rehabilitation of VoTs. The Norwegian Government is exploring ways to harmonize the asylum system and complementary humanitarian procedures to ensure that VoTs are provided with appropriate protection and assistance and to prevent the duplication of efforts.

E. Further information

The Norwegian Immigration Act of 2008 is available at:
http://www.ub.uio.no/ujur/ulovdata/lov-19880624-064-eng.pdf.

SOUTHERN AFRICAN COUNTER-TRAFFICKING ASSISTANCE PROGRAMME (SACTAP) 2004 – PRESENT

A. Background and Rationale

The Southern African Counter-Trafficking Assistance Programme (SACTAP) is a regional programme developed by the IOM Regional Office for Southern Africa.

SACTAP was designed to address the particular needs of each country in the Southern African Development Community (SADC) region according to its significance as a country of destination, transit and source of human trafficking. South Africa was used as a base because it is the main destination country for trafficked persons within and towards the region.

B. Actors

• Departments of Home Affairs, Safety & Security, Interior, Justice, Social Development, Foreign Affairs in the region;

• participating countries (namely Botswana, Lesotho, Madagascar, Malawi, Mozambique, South Africa, Swaziland, Tanzania, Zambia, and Zimbabwe);

• IOM-Regional Office for Southern Africa;

• INTERPOL;

• relevant embassies and NGOs;

• Southern African Regional Police Chiefs Cooperation Organisation (SARPCCO); and

• UN Office on Drugs and Crime (UNODC).

C. Actions

- The provision of direct assistance to trafficked persons or support through a regional network of service providers offers secure accommodation, medical assistance, counselling, legal assistance and skills training. Assisted voluntary return and reintegration (AVRR) is also provided to trafficked persons who wish to return to their countries of origin. Toll free hotlines provide anonymous counselling and information services.

- Training and capacity-building activities are available for relevant State institutions, with a particular focus on police and "first contact" immigration officials, as well as victim support centres.

- Information campaigns on the risks of human trafficking and available support target at-risk individuals and trafficked persons, government officials, and the general public. A quarterly trafficking bulletin, the "Eye on Human Trafficking", highlights research findings and current issues and is available in English, French and Portuguese.

- Research activities ensure that awareness campaigns are appropriate and effectively targeted. Data has been used to investigate and prosecute trafficking cases. Legal research and a compilation of best practices in other regions inform legislative and policy development.

D. Review

The four components of SACTAP are mutually reinforcing and contribute to the overall success of the programme. It has increased awareness of human trafficking in the region and provided assistance and protection to an increasing number of trafficked persons. It has also led to partnerships with law enforcement, law commissions and NGOs.

SACTAP has improved government and law enforcement action and has placed human trafficking on the public policy agenda. A number of countries in the region have ratified the 2000 Palermo Protocol and have engaged in policy discussions on anti-trafficking legislation.

E. Further Information

Available at:
http://www.iom.org.za/CounterTrafficking.html.

IOM Study on the Right to Residence for Trafficked Persons: A Comparative Assessment

In 2009, IOM conducted a comparative study of the residence options available to victims of trafficking in four selected countries: Austria, Belgium, Italy and the USA.

The purpose of the study was to identify gaps and good practices, and to assess how relevant legal norms are implemented in practice. The study found that, inter alia, all four countries consider the legalization of the stay of victims of trafficking when certain criteria are met. The length of stay/residence permit varies from three months to an indefinite period. The research findings also reveal that victims are rarely seen as the holders of rights. They are seen, instead, as "instruments" in investigations or prosecution.

The findings of the research study will be available at:
www.iom.int.

6.5. Asylum procedures

The asylum systems of countries affected by large mixed movements may become strained if many arrivals apply for asylum, regardless of their international protection needs, in order to avoid deportation and to regularize their stay, at least temporarily.

A comprehensive approach to mixed movements, as suggested by the 10-Point Plan, can reduce these pressures on asylum systems. The availability of differentiated processes and procedures and the "profiling and referral" mechanism proposed in Chapter 5 are important tools to better manage mixed groups of arrivals and to limit the number of unfounded asylum applications.

In addition, there are tools that can be adopted within the asylum system itself to improve the efficacy and efficiency of asylum procedures. These tools can be divided into two categories: "caseload management tools" and "procedural tools". While both have the same objective – to increase the efficiency of the asylum procedure – caseload management tools aim to improve organization of the overall workload while procedural tools affect the procedural rights accorded to asylum applicants who fall within certain categories of cases. It is therefore important, in the latter case, to ensure that efforts to increase efficiency do not unduly compromise procedural safeguards.

This section provides a selection of State tools to improve the efficacy and efficiency of asylum procedures, as well as examples of UNHCR procedures and practices.

6.5.1. Caseload management tools

Caseload management tools can help ensure that asylum procedures run efficiently. The following tools could be applied alone or in combination with others.

6.5.1.1. Caseload analysis

Undertaking a general analysis of all incoming asylum applications as a group prior to hearing individual claims can help authorities better manage asylum procedures. The goal is to obtain a broad picture of the nature and categories of claims, including the main countries of origin, ethnic or social groups, ages, and motives for moving. Such a picture can be useful for scheduling interviews, managing resources, and ensuring that country of origin information is accurate and up-to-date. It can also help ensure that appropriate interpreters are made available during the asylum procedure. The caseload analysis can be based on information gathered during profiling and referral exercises (as outlined further in Chapter 5). It could also be based on information gathered during registration or similar procedures.

CANADA: CASELOAD MANAGEMENT
1989 – PRESENT

A. Background and Rationale

The Immigration and Refugee Board (IRB) is an independent, quasi-judicial, specialized tribunal that decides immigration and refugee cases. A Personal Information Form filed with the IRB provides information on identity, travel routes, education and employment history, family ties, marital and immigration status, criminality, refugee status elsewhere, removal, and the reasons for departure from the country of origin. The IRB assesses the form and determines the process most suited for the applicant.

B. Actors

• IRB; and
• UNHCR.

C. Actions

Each asylum claim is reviewed by the IRB and assigned one of three procedures, as outlined below.

• A fast-track expedited process is provided for manifestly well-founded cases, including claimants from certain countries or with a certain type of claim. An interview is conducted by a Refugee Protection Officer, who makes a recommendation regarding suitability for this procedure. If the finding is favourable, the claim is forwarded to an IRB decision maker who decides if the claim should be accepted without a hearing. A full hearing is held if protection is not granted under the expedited process.

• A fast-track hearing is provided for claims that raise only a limited number of issues and appear to be straightforward. A member of the Board holds a hearing, which is not attended by a Refugee Protection Officer.

• A full hearing is provided for claims that involve two or more issues and that may be complex. A Refugee Protection Officer may assist the Board member.

Article 166 of the Canadian Immigration and Refugee Protection Act specifically acknowledges UNHCR's mandate and right to monitor procedures.

Other features of the system include:

• the development of tools to promote quality and consistency in decision making, such as the standardization of high-quality country of origin documentation and guidelines for decision makers;

- the development of tools to promote more efficient hearing processes, including guidelines for chairpersons on procedural matters, shorter written reasons, and a greater number of oral decisions (for which the applicant receives a written transcript); and
- professional development and training for staff, including close engagement with UNHCR.

D. Review

The Canadian asylum procedure is well-developed and well-funded, and officials have significant experience. The Canadian asylum system is also commendable for the level of professional development and training it provides to its staff. Despite the introduction of these caseload management tools, the system is currently confronted with a sizeable backlog. Canada is currently adopting new legislation which includes revisions of the caseload management system.

E. Further information

Details on the Canadian Immigration Refugee Board are available at:
http://www.irb-cisr.gc.ca/.

See also, Belgium: Caseload Profiling by the Office of the Commissioner General for Refugees and Stateless Persons (CGRS), below.

6.5.1.2. Country of origin information

Country of origin information provides the basis for effective asylum procedures, facilitating caseload analysis and efficient decision making. Quality country of origin information is relevant, comprehensive, reliable, up-to-date and drawn from a variety of authoritative sources. Relevant country of origin information includes data on the socio-political and human rights situation in countries and regions of origin, a description of political, religious, social and ethnic groups that may be at risk of persecution or serious harm, and any other information that may be helpful to assist asylum adjudications. The provision of guidelines and training for decision makers can ensure that country of origin information is used appropriately and effectively.

Quality Standards for the Research and Use of Country of Origin Information

Quality standards for the research and use of country of origin information include:

- UK Immigration and Asylum Services (IAS), *The Use of Country of Origin Information in Refugee Status Determination: Critical Perspectives*, 2009;
- UNHCR, *Country-of-origin (COI) information: Towards Enhanced International Cooperation*, 2004;
- Austrian Centre for Country of Origin and Asylum Research and Documentation (ACCORD), *Researching Country of Origin Information*, 2004;
- The International Association of Refugee Law Judges (IARLJ), "Judicial Criteria for Assessing Country-of-Origin Information," 2006; and
- *Common European Union Guidelines for Processing COI*, 2008.

All documents are available at:
http://www.unhcr.org/refworld/training.html.

The European Asylum Support Office (EASO) is an EU specialized agency with a mandate to support EU Member States in the operation of their asylum systems and to assist in the creation of the Common European Asylum System. This main objective of ensuring consistent high quality decision making and aligning existing asylum rules and practices throughout the EU will be pursued through enhanced practical cooperation between the Member States.

EASO also seeks to facilitate the exchange of information on countries of origin and on good practices, to offer training to asylum officials and to assist those Member States that receive large numbers of asylum claims with managing the assessment procedure.

Useful Websites

REFWORLD, the database for country of origin information is the state-of-the-art, internet-based protection information system of UNHCR.

It is available at: www.refworld.org.

ECOI.NET gathers, structures and processes publicly available country of origin information with a focus on the needs of asylum lawyers and persons deciding on claims for asylum and other forms of international protection. It is managed by the Austrian Center for Country of Origin Documentation and Research.

It is available at: www.ecoi.net.

6.5.1.3. Guidance for interviewers

Providing officials responsible for conducting asylum interviews with a practical tool to guide them through the interview process can ensure that key issues are raised and that there is consistency across interviews. This tool could simply be a basic checklist of questions or issues to be raised during the interview. The content of this checklist would vary depending on the nature of the caseload. Questions could be drawn from information gathered at the profiling and referral phase (as discussed in Chapter 5) or during the caseload analysis. For example, questions could be identified that will help to determine a person's ethnic, social or political sub-group. In the interests of preserving the flexibility and accuracy of assessments and decision making, it is important that any tools provided to assist an asylum official do not prevent him/her from exercising his/her discretion on a case-by-case basis.

**DJIBOUTI: VERIFICATION OF SOMALI APPLICANTS
2008 – PRESENT**

A. Background and Rationale

A Verification Form was designed in 2008 to assist UNHCR and Government eligibility officers in Djibouti to identify persons originating from South/Central Somalia who may be in need of international protection, as well as to facilitate the timely detection of fraudulent claims by applicants who may pose as South/Central Somalis.

B. Actors

- *Office National d'Aide aux Réfugiés et Sinistrés* (ONARS) of the Ministry of Interior, Djibouti; and
- UNHCR.

C. Actions

- ONARS and UNHCR interviewers process Somali applicants using the Verification Form at the Reception Centre (200-300 interviews per month).
- Interviewers are required to have a sound knowledge of accents, clan structures and the geography of South/Central Somalia.
- There is no appeal or review procedure, but consensus and joint review by UNHCR and ONARS are required for both recognition and rejection decisions. Applicants who credibly establish their place of origin as South/Central Somalia are registered as refugees.
- Within 48 hours, they are transferred to the Ali-Addeh Camp where assistance is provided. Should they meet the relevant criteria, they are registered as urban refugees and issued relevant identity documents.

D. Review

As illustrated in this case, the Verification Form is appropriate for caseloads where a presumption of eligibility applies. The main advantage of the Verification Form is its simplicity, which permits the prompt identification of meritorious and non-meritorious cases at the entry point. Verification, registration and documentation takes place within a few hours. Another positive outcome is that it requires regular joint cooperation between UNHCR, ONARS, army and immigration officers.

The capacity of the Government of Djibouti to conduct joint screening and registration of Somalis near the border with Somaliland/Somalia in Loyada has increased significantly since 2008. Reception arrangements in Loyada also have been enhanced and simplified procedures have been implemented. UNHCR and the Government jointly provide training to immigration, police and security officers.

E. Further information

Annex 16 – UNHCR Djibouti: Verification Form for South/Central Somalis, 2008

SOMALIA:
UNHCR PRE-SCREENING FORM
FOR ETHIOPIAN ASYLUM-SEEKERS IN BOSSASO
2006

A. Background and Rationale

The Pre-screening Form was designed to facilitate rapid RSD for Ethiopian asylum-seekers who were threatened with deportation in Bossaso.

B. Actors

- UNHCR.

- UNHCR staff completed the Pre-screening Form when interviewing arrested/detained illegal migrants in Bossaso who were threatened with deportation.
- In addition to biographical data and flight motives, the Pre-screening Form highlights several categories of persons (e.g. those with connections to the Oromo Liberation Front (OLF) or to the Derg regime or those who have been arrested) and asks the interviewer to identify the category to which the applicant belongs.
- The use of the Pre-screening Form enabled UNHCR to decide within 2-3 months on the claims for refugee status of approximately 200 persons.

D. Review

The questionnaire aims to capture protection needs while guiding the interviewing staff. It is straightforward and fast to complete. The margin of error was reduced by training interviewing staff on what they should look for prior to commencing the RSD exercise.

The form allows the interviewer to assess the credibility and consistency of the applicant's statements against country of origin information, the presence of a well-founded fear of persecution, the claim's connection to any 1951 Convention grounds, and the applicability of any exclusion clause. It then provides a list of the profiles and outcomes that may be considered.

The Pre-screening Form was used in a context of mixed movements involving mostly a non-prima facie caseload. Positive outcomes included enhanced cooperation with IOM and the local authorities, and the signing of a MOU between UNHCR and Puntland authorities. It also resulted in the establishment of a Puntland Refugee Affairs Committee and the recognition and protection of a significant number of Ethiopian refugees in that part of Somalia.

E. Further information

Annex 17 – UNHCR Bossaso, Pre-screening Form, 2006

6.5.1.4. Strategic allocation of staff and resources

Adopting a strategic approach to the allocation of staff and resources, based on profiling and referral information and a caseload analysis, allows asylum authorities to identify certain categories of cases for prioritized scheduling or the allocation of more staff, rather than considering each case on a "first come, first served" basis. This may be appropriate for:

- cases that appear to be straightforward (e.g. having no more than one issue of fact or law in doubt, strong evidence to support the applicant, and no need for further research or evidence gathering);
- cases involving applicants with specific or urgent needs (e.g. unaccompanied or separated children, victims of torture, trafficked persons, women and girls at risk);
- cases involving repeat applicants; and
- ad hoc responses for certain groups of applicants (e.g. those from a particular region in the country of origin, social network or family groups), if it would be desirable to process their claims more quickly.

This approach is advantageous for individual applicants with specific needs who receive priority processing, but it can also have a broader impact on overall management of the asylum system. For example, the early prioritization of straightforward cases could allow authorities to reduce a backlog.

Strategic resource allocation is not to be confused with accelerated procedures for manifestly unfounded cases (as discussed below). Individuals whose claims are prioritized as part of strategic resource allocation still receive the same full procedural rights and guarantees as other applicants. However, depending on the circumstances, an asylum claim could be considered both for prioritization as part of strategic resource allocation and for admissibility to accelerated procedures involving a reduction in procedural rights for that individual.

Belgium: Caseload Profiling by the Office of the Commissioner General for Refugees and Stateless Persons (CGRS) 2007 – Present

Since June 2007, the independent asylum governmental authority of the Office of the Commissioner General for Refugees and Stateless persons (CGRS) has been the body responsible for examining asylum applications in Belgium.

The CGRS recently developed a profiling system based on two methods to improve RSD management:

• daily use of an electronic database; and

• preparation of reports on sensitive profiles, based on a compilation of information from RSD managers about specific caseloads.

The initiative aims to:

• gain an overview of the profiles within a certain caseload;

• emphasize the role of the RSD manager in planning the asylum procedure based on country of origin information research prior to the interview and to produce RSD guidelines for the most important profiles;

• give particular attention to persons with specific needs by assigning claims made by vulnerable asylum-seekers to a specially trained RSD officer; and

• design targeted assistance programmes (i.e. shelter, integration and voluntary repatriation) following profiling.

See also Canada: Caseload Management, above. Further information is available at: http://www.cgvs.be/en/index.jsp.

Annex 18 – CGRS, Profiling of Asylum Seekers Study, 2010

6.5.2. Procedural tools

Unlike the caseload management tools outlined above, procedural tools alter the mechanism for examining an asylum claim and affect the procedural rights of an individual under international law. It is, therefore, important to ensure that minimum procedural standards are applied and that the asylum procedures are not only efficient but also fair. This section outlines two procedural tools that may improve the efficiency of asylum applications: admissibility procedures and accelerated procedures.

6.5.2.1. Admissibility procedures

Admissibility procedures allow authorities to consider whether a full substantive assessment of a particular asylum application has already been conducted, either in that State or another State, or whether a full assessment would be more appropriately conducted in another jurisdiction. If the answer is affirmative in either case, the State would not need to consider the full merits of the application in its own asylum procedures. Admissibility procedures can be part of a burden and responsability-sharing arrangement between countries and can help address the problem of secondary movements (as outlined further in Chapter 8).

The introduction of admissibility procedures could be useful for States facing a large number of applications from persons in the following categories:

- applicants who have already found effective protection in another country, who can be returned to that country, and who will continue to enjoy effective protection after return;
- applicants for whom responsibility for assessing the merits of the asylum application has been legally and in fact assumed by a third country, provided the asylum-seeker will be protected from refoulement and will be able to seek and enjoy effective protection in that country; or
- repeat applicants whose asylum applications have already been rejected after a full and fair examination and who do not provide new evidence (e.g. significant changes to their individual situation or to the circumstances in the country of origin).

6.5.2.2. Accelerated procedures

Accelerated procedures could be used in situations where asylum procedures are under pressure because of a large number of applicants who manifestly have no international protection needs but, nevertheless, submit asylum requests for non-protection-related reasons. These are asylum applications that are either "manifestly unfounded" or "clearly abusive".

A claim is manifestly unfounded if an applicant's statement and evidence do not trigger any element of the refugee definition or another basis for international protection.

An application is clearly abusive if the applicant grounds his/her request on documents, facts, data or allegations that are manifestly false, no longer relevant or scientifically implausible. Lack of documentation, in itself, is not sufficient to render a claim manifestly unfounded or clearly abusive.

The content of accelerated procedures varies, depending on the circumstances. However, international standards for asylum procedures apply. In particular, every applicant is entitled to receive a personal interview by an official from the competent asylum authority and to have the opportunity to present evidence. Acceleration of procedures would occur only after this first interview has been completed. Negative decisions from cases assessed as manifestly unfounded or abusive could be issued in a simplified, standardized format. Appeal procedures then could be accelerated through:

- shortened time limits for filing appeals;
- discretion not to hold an interview on appeal if new elements are not presented;
- shortened time limits for issuing appeal or review decisions and, where a decision is not possible within this period, referral of the case to the regular procedure;

- use of standard forms for issuing negative appeal decisions; and

- no possibility of further review after one negative appeal decision.

In situations where forced returns are immediately conducted after a negative decision from accelerated procedures, UNHCR or a qualified NGO (or NGO panel) could be given a veto right against return as an additional safeguard.

UNHCR also supports the introduction of accelerated procedures for manifestly well-founded applications. However, as mechanisms do not reduce the procedural rights of asylum-seekers, they are outlined in Section 6.5.1.4. (under "strategic staff and resource management").

AUSTRIA: AIRPORT PROCEDURE
2005 – PRESENT

A. Background and Rationale

The Austrian Asylum Act created a procedure for asylum applications submitted at the airport in Austria. UNHCR holds a right to veto certain decisions taken by the first-instance asylum authority at the airport.[3]

B. Actors

- Austrian Federal Asylum Agency; and
- UNHCR.

C. Actions

Persons who express a wish to seek asylum at the Vienna International Airport are referred to the first-instance asylum authority, the Austrian Federal Asylum Agency ("the asylum authority"). The asylum authority determines which cases may be decided upon immediately and, therefore, can be processed through the airport procedure. Asylum-seekers with more complex cases are granted entry to the territory and referred to the regular asylum procedure.

The asylum authority transmits airport procedure cases that it intends to reject as manifestly unfounded or inadmissible to the UNHCR Office in Austria. UNHCR has a right to veto the rejection. This right must be exercised within 48 – and in any case no later than 96 – working hours.[4] If UNHCR exercises this right, the applicant is granted entry and enters through the regular procedure. An appeal against a rejection in the airport procedure has to be made within seven days. Applicants whose claims are decided at the airport are housed in reception areas on the airport premises and have access to legal counselling.

Persons whose claims are found to be manifestly unfounded or inadmissible in the airport procedure, and where UNHCR does not exercise its right of veto, are subject to immediate deportation from Austria.

There are two grounds, outlined below, upon which an asylum application would be rejected at the airport.

- An asylum application may be rejected on admissibility grounds in relation to application of the safe third-country principle or the Dublin II Regulation.[5]

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3 Section 3 (Articles 31-33) of the Asylum Act governs these procedures.
4 UNHCR, however, does not have the right to veto decisions according to which, based on the Dublin Regulations, another Member State of the EU is responsible for the determination of the asylum request.
5 Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national [Official Journal L 50 of 25 February 2003].

- An asylum application may be rejected on merits where the asylum-seeker has:
  - attempted to deceive the asylum authority of his/her identity/nationality/authenticity of documents, despite being informed of the consequences (rendering the claim clearly abusive);
  - made allegations that clearly do not correspond to reality (rendering the claim manifestly unfounded);
  - not claimed a fear to return to his/her country of origin (rendering the claim manifestly unfounded); or
  - arrived from a country of origin that is considered safe (rendering the claim manifestly unfounded).

D. Review

UNHCR's involvement in the airport procedure is an important protection safeguard that assists the Austrian authorities in ensuring protection against *refoulement* in the context of these specific border procedures, where negative decisions result in immediate removal. Involvement in the procedure allows UNHCR to collect firsthand information on the mixed character of irregular movements at Austria's main external Schengen border. Regular exchange between UNHCR and officials from the Federal Asylum Agency and the border police fosters a joint understanding of protection obligations and challenges.

E. Further information

Annex 19 – Agreement between the Austrian Federal Government and UNHCR concerning the cooperation of UNHCR in asylum procedures where the application has been filed at the border control following entry via an airport

Annex 20 – Austria Federal Act Concerning the Granting of Asylum (2005 Asylum Act – *Asylgesetz* 2005) Federal Law Gazette (FLG) I No. 100/2005

MOROCCO: ACCELERATED UNHCR MANDATE REFUGEE STATUS DETERMINATION
2005

A. Background and Rationale

An accelerated procedure was implemented by UNHCR-Rabat at the end of 2005 to quickly identify clearly abusive and/or manifestly unfounded claims, so that resources could be devoted to persons with legitimate international protection needs and to clear a backlog of applications. This procedure was only applied for a short period of time.

B. Actors

- UNHCR.

C. Actions

- The accelerated procedure was applied to the following applications:
  - clearly abusive or manifestly unfounded applications; and
  - applicants from certain countries whose claim was neither abusive nor manifestly unfounded but for whom there was an extremely low recognition rate over the past year.

- The applicants were interviewed twice, during an initial, short screening and during a follow-up interview, and they had the right to appeal a negative decision.
- The policy to provide asylum-seeker certificates to all applicants was temporarily discontinued. Only asylum-seekers whose applications were determined not to be abusive or unfounded were granted a certificate.
- Applications from persons with specific needs were prioritized (and deemed manifestly well founded). These included survivors of torture or trauma, women at risk, elderly persons without support, disabled persons without support, persons in urgent need of medical assistance, and certain child applicants, especially unaccompanied or separated children.
- Appeals for rejected applications were lodged within 48 hours of the negative decision, and a final decision was made within one week of the appeal. When an appeal was successful, the applicant was channelled into regular procedures, granted an asylum-seeker certificate and scheduled for a regular RSD interview.

D. Review

The administration of accelerated procedures for manifestly unfounded or clearly abusive claims had the desired effect of deterring illegitimate applications. In addition, discontinuing the provision of asylum-seeker certificates to all applicants significantly lowered the incentive for nationals of countries without a record of persecution or violence to apply for asylum.

The number of cases rejected at first instance as manifestly unfounded decreased dramatically after the first few months. This was due to two factors: the discouragement of manifestly unfounded claims; and an improvement in the quality of analysis determining unfounded or abusive applications.

Although the procedure helped make more resources available to address legitimate protection needs, it was lengthy and often involved additional interviews when doubts arose. Further, an artificial limit was placed on the number of persons that could be registered because of a lack of staff and resources. The procedure, therefore, was discontinued. While this procedure was useful in a context of significant fraud and abuse and where there was also a sizeable backlog, such a model may not be appropriate in cases where fraud and abuse occur on a lesser scale.

SOUTH AFRICA: ACCELERATED ASYLUM PROCEDURES
1998

A. Background and Rationale
South Africa is a focal point for mixed movements in its region and receives the largest number of applications for asylum worldwide (around 50,000 in 2007, over 200,000 in 2008 and 223,324 in 2009). In recent years, South Africa has come under increasing pressure to process asylum applications in a rapid, but efficient, manner. To ensure the better use of resources, the South African Department of Home Affairs established an accelerated procedure for those asylum-seekers who clearly do not qualify for international protection.

B. Actors

- South African Department of Home Affairs.

C. Actions

- Asylum-seekers may lodge an application at one of seven refugee reception centres in Pretoria, Cape Town, Durban, Port Elizabeth and Musina. A refugee reception officer interviews the applicant and assists him/her to complete an Eligibility Determination Form (EDF).
- The EDF requests the applicant's biographical and identity information, reasons for applying for asylum, previous claims for asylum and criminal records. It also contains specific questions to screen out "manifestly unfounded" cases with questions on the country of origin.
- The reception officer warns applicants that providing false information can discredit their application and lead to prosecution.
- Section 24(3) of the Refugee Act of 1998 gives RSD officers the authority to make a decision based on the information provided in the EDF. Manifestly unfounded, abusive or fraudulent claims are forwarded to the Standing Committee for Refugee Affairs to review the application and uphold or overturn a decision made by the RSD officer. There is no right to appeal a Committee's decision.

D. Review

This procedure introduced for manifestly unfounded and/or abusive applications, which excludes cases from a full examination at appeal levels, may help reduce a backlog in an overburdened system, but cases need to be carefully screened to prevent *refoulement*. The Government has not put in place a system that monitors or enforces the removal of unsuccessful asylum-seekers from its territory. The Refugees Amendment Act of 2008 which has not yet come into force, however, may bring substantial changes to this procedure.

E. Further information

Annex 21 – Republic of South Africa Refugees Act 1998 (selected articles)

Annex 22 – Republic of South Africa, Department of Home Affairs, Eligibility Determination Form for Asylum-seekers

Additional Examples of Safeguards

According to the **Spanish Royal Decree 511/1985 of 20 February 1985**, UNHCR can make recommendations during the procedure at the Spanish border.

Annex 23 – Royal Decree 511/1985 of 20 February 1985

According to the **Danish Aliens Consolidation Act Nº 808 of 8 July 2008**, the Danish Refugee Council has a veto right in Denmark's manifestly unfounded procedure.

Annex 24 – Aliens Consolidation Act No 808 of July 2008

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