



## Information on UNHCR's role and concerns regarding Victims of Trafficking

United Nations High Commissioner for Refugees (UNHCR) is an agency set up in 1950 by the UN General Assembly to provide and coordinate international protection for refugees. The group of concern to UNHCR is first and foremost refugees as defined in the 1951 Refugee Convention. A refugee is someone who "owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality, and is unable to, or owing to such fear, is unwilling to avail himself of the protection of that country."

Persons claiming to be in this situation but where the facts and circumstances of their cases have not yet been established nor an evaluation undertaken to determine whether they are refugees are often referred to as asylum seekers. They are also of concern to UNHCR. So too are persons who have fled different forms of generalised violence and are in need of international protection. Subsidiary protection in EU Member States acts as a complementary protection regime to the 1951 Refugee Convention.

In addition UNHCR has a mandate to provide protection to stateless persons and a limited mandate to assist in situations where persons are internally displaced or are returning from a situation of refuge or displacement.

UNHCR has no general mandate as such in relation to protection from or prevention or prosecution of trafficking in human beings. UNHCR's involvement with the issue of trafficking is essentially twofold:

- 1) the Office has a responsibility to ensure that refugees, asylum-seekers, internally displaced persons (IDPs), stateless persons and other persons of concern do not fall victim to trafficking.
- 2) the Office has a responsibility to ensure that individuals who have been trafficked and who fear being subjected to persecution upon a return to their country of origin, or individuals who fear being trafficked whose claim to international protection falls within the refugee definition, are recognized as refugees and afforded the corresponding international protection.

### **Within this context UNHCR in Ireland has advocated for:**

- Early legal advice and information of their right to seek asylum are provided to persons who are potential victims of trafficking (VoT);
- Awareness raising with government authorities and organisations working with victims of trafficking of the potential international protection needs of VoT and how to address them;

- Awareness raising and training of adjudicators in asylum cases regarding the identification of international protection needs of VoT or persons at risk of being trafficked<sup>1</sup>;
- A system where international protection needs of a VoT is considered independent of any specific application process. This is ensured through inter-agency cooperation and referral systems;
- Appropriate referral between the asylum procedure and the procedure for VoT assistance and protection, to ensure full assessment of a person's protection needs are met;
- That international standards, on for instance the best interests of the child considerations, for separated children outside their country of origin are followed<sup>2</sup>;
- That issues relating to a trafficked victim's displacement situation before s/he was trafficked is included in research and data collection to highlight any links between displacement and vulnerability to trafficking for the purpose of advocacy, policy and project planning.

#### **When to contact UNHCR in relation to trafficking:**

- ❖ If you are an asylum seeker or a person who considers that you have been subjected to trafficking and you are unsure of what you should do to access different procedures, you can contact UNHCR by phone and get relevant referral advice.
- ❖ If you are working on behalf of a client who is an asylum seeker or a potential victim of trafficking and you need advice on how to interpret the 1951 Refugee Convention definition in relation to issues of trafficking, or get access to UNHCR publications, you can write to us and get our advisory opinion.
- ❖ If you are representing a client in legal proceedings in which a question of interpretation of the 1951 Refugee Convention is raised you can write to UNHCR and ask for an advisory opinion. UNHCR may also decide to prepare an *amicus curiae* brief in such cases

UNHCR Ireland  
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<sup>1</sup> See for instance article in The Researcher Volume 3, Issue 2, June 2008 "Trafficking in Human Beings – a Human Rights violation - a need for protection", as well as UN High Commissioner for Refugees, *Guidelines on International Protection No. 7: The Application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees to Victims of Trafficking and Persons At Risk of Being Trafficked*, 7 April 2006, HCR/GIP/06/07, available at: <http://www.unhcr.org/refworld/docid/443679fa4.html>

<sup>2</sup> For more information on UNHCR's suggestions on the use of Best Interests of the Child Determination see resource package from World Refugee Day Child Conference available at <http://www.unhcr.ie/180609.htm>