

# Europe as a region of migration and protection

## **Protection Training Manual for European Border and Entry Officials**

Session 1

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# Structure of presentation

- 1. Who crosses the external borders of EU Member States?**
- 2. What are the main obligations of the States *vis-à-vis* the different categories of persons?**
- 3. What the statistics tell us**
- 4. The role of each stakeholder:**
  - EU Member States
  - UNHCR
  - NGOs
  - Border and immigration control authorities

# Who crosses the external borders of the EU?

- All kinds of persons
- Refugees, migrants (regular/irregular)
- Reasons incl. human rights violations, poverty, war
- Some cannot go back to their countries

# Irregular migrants have rights like anybody else

- In States of destination and transit
- Because these States have ratified international or regional treaties
- These treaties are applicable to all persons regardless of their nationality or status

# Which treaties say so?

## **The Human Rights Bill:**

- Universal Declaration of Human Rights (1948)
- International Covenant on Civil & Political Rights (1966)
- International Covenant on Economic, Social and Cultural Rights (1966)

## **UN Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990)**

# Which rights?

- Right to life
- Prohibition against torture and inhuman or degrading treatment
- Freedom from slavery and forced labour
- Right to non-discrimination
- Freedom of movement / limited detention
- Right to a hearing with the assistance of an interpreter if necessary
- Health care

# The Definition of a refugee

- the element of fear of persecution
- that the law foresees five possible grounds for persecution
- that the person is outside the country of nationality (or residence) and cannot return to it because of that fear.

# The most important obligation of States in relation to Refugees is not to return them to persecution

## **1951 Convention on the Status of Refugees:**

- Fear of Persecution
- Five possible grounds for persecution
- Outside the country of nationality (or residence)
- Cannot return to it, or is not willing to do so, because of that fear
- Art. 31: right to non refoulement

## **Convention Against Torture, Art. 3**



# Victims of trafficking

## Trafficking is a transnational crime

### International law:

- Palermo Protocols
- UN Convention against Transnational Crime

# Definition of trafficking

## Trafficking is:

- A series of specific **acts**
  - Recruitment, transportation, transfer...
- Committed using specific **means**
  - Force, coercion, abduction, fraud, abuse of power...
- For specific purposes or **goals**
  - Exploitation for prostitution or other forms of sexual exploitation, forced labour, slavery...

# What the statistics tell us

- Irregular entries small fraction of border crossings
- Number of asylum-seekers amongst migrants even lower
- Number of asylum applications in EU countries dropped drastically last years
- On average 40% of persons who reach Europe are deserving of international protection
- Role of border authorities in identifying asylum-seekers crucial.

# The Role of the EU: crossing of external borders

- Integrated Border Management System (IBM)
- Schengen Borders Code
- External Borders Fund 2007- 2013: €1.82bn
- FRONTEX
- RABITS
- EUROSUR
- Carrier Sanctions
- EU ILOs network (immigration liaison officers)
- Common EU Visa Policy

# Common European Immigration Policy

- Family reunification
- Long-term residence
- Residence permits for victims of trafficking
- Return of persons with no legal right to remain

# Common European Asylum System

- **Why?** Temporary Protection to displaced persons in situations of mass influx
- **Which** EU MS is responsible to determine an asylum claim?  
**Dublin Regulation**
- **Who** is a refugee?  
**Qualification Directive**
- **What** are the minimum reception conditions of asylum seekers?  
**Reception Directive**
- **How** are asylum claims adjudicated?
- **Asylum Procedures Directive**

# UNHCR's role globally

## **MANDATE:**

- To provide international protection to refugees
- To seek durable solutions to their problems

**UNHCR has a supervisory responsibility over Governments' implementation of the 1951 Refugee Convention**

# UNHCR's role globally (cont'd)

## **ACTIVITIES**

UNHCR works with Governments and NGOs towards:

- Securing the admission of asylum seekers into the territory of States and to asylum procedures
- Preventing refoulement
- Assuring minimum standards of treatment of asylum seekers and refugees
- Promoting the reunification of separated refugee families



# UNHCR'S ROLE re: mixed migration

## **To protect refugees travelling in mixed migration movements by:**

- Promoting protective migration policies
- Ensuring that refugees are appropriately considered in the political discourse on migration and development
- Supporting States' legislative efforts (incl. in the areas of migration control, anti-terrorism, social policies, etc) to ensure that the rights of refugees and asylum seekers are protected
- Contributing to the fight against trafficking and to the efforts to address its consequences

# UNHCR'S TEN POINT PLAN

**To assist States in recognizing and addressing refugee protection needs in situations of mixed migration:**

1. Cooperation among key partners
2. Data collection and analysis
3. Protection-sensitive entry systems
4. Reception arrangements
5. Mechanisms for profiling and referral
6. Differentiated processes and procedures
7. Solutions for refugees
8. Addressing secondary movements
9. Return arrangements for non-refugees and alternative migration options;
10. Information strategy

# The role of entry officials

**As the first authority to enter into contact with people arriving, they must identify persons at border areas who may have protection needs and:**

- Ensure non refoulement
- Ensure access to asylum procedures to anyone who applies for asylum, whether expressively or implicitly
- Identify victims of trafficking and their traffickers
- Identify persons with specific needs: unaccompanied/separated children, irregular migrants with health care or other needs, family unity, etc.
- Link up with national referral institutions to respond to the identified needs.

# The role of entry officials (cont'd)

**To 'reconcile' border controls with the protection of those crossing borders, entry officials must:**

- Become very familiar with international norms and the main protection principles
- Develop good communication skills with persons from different cultures and experiences (e.g. trauma, etc)
- Develop standard operating procedures at the local level to deal with identified needs
- Maintain close working relationships with national referral institutions.

**WE WILL WORK ON THIS KNOWLEDGE  
AND SKILLS DURING THE WORKSHOP!**