













4

Identifying Protection Needs in Group Arrivals

Session 4 Manual

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Objectives

In the area of knowledge acquisition, after this Session participants will:

- Understand concrete articulations of the principle of *non refoulement* in the context of border control.
- Become familiar with the main duties and obligations of border officials undertaking entry control activities with regards to the rights of asylum-seekers, migrants and persons with specific needs. This includes needs related to age, gender, migratory situation, being subject to trafficking, etc.
- Become familiar with key provisions of the EU Directive on Asylum Procedures and the EU Directive on Reception Conditions that affect the situation of asylum-seekers and migrants in the context of border management.

In the area of skills and attitudes, participants will:

- Gain awareness of the psychological effects of working in the midst of the complexities related to border control and in continued contact with victims of trauma, persons in need and victims of human rights violations in general.
- Understand specific mechanisms to overcome some of the abovementioned psychological effects to ensure an effective delivery of their responsibilities, particularly with regard to protecting the rights of persons crossing the borders.
- By gaining familiarity with international norms on refugee protection and human rights, learn to rely on their common sense and personal judgment to increase their ability to take quick and appropriate decisions with respect to different categories of persons attempting to cross the borders.



Session Outline

Methodology	Material required	Duration: full day
4.1 Simulation	<ul style="list-style-type: none">- Masking tape- Handouts with instructions- Cards with info on a person's case- Power Point with messages during emergency	1 hour
4.2 Group Work	<ul style="list-style-type: none">- 4 Laptops- Electronic "<i>Daily Incidents Sheets</i>"	1 hour
4.3 Debriefing part I: Discussion on feelings and attitudes		45 minutes
4.4 Debriefing part II: Presentation: <i>"The Impact of Working in a Border Control Environment"</i>	<ul style="list-style-type: none">- Key Messages- Power Point Presentation	45 minutes
4.5 Debriefing part III: Review of decisions made on individual cases during the simulation	<ul style="list-style-type: none">- Key Messages table (only for facilitators)	2 hours
4.6 Debriefing part IV: Presentation: wrap up of key protection messages	<ul style="list-style-type: none">- Key Messages- Power Point	1 hour
4.7 Conclusions		



4.1. Simulation exercise: Group arrivals at land borders

This session is the single most important activity of the whole workshop. It exposes participants to their own internal feelings and reactions, both positive and negative. It also shows, though in a fictitious scenario, which are the main challenges encountered in the discharge of their duties as border officials; in which areas they are more prone to take the wrong decisions; where they need to improve their communication skills or their knowledge of international protection standards, etc.

At the beginning of the Session, the facilitators will stage a simulation to reproduce the attempt of several migrants and asylum-seekers to cross the external border of two EU Member States.

The different situations experienced during the simulation, the decisions taken as a result thereof, and the lessons learned will be recurrent themes throughout the rest of the Sessions. Therefore, facilitators need to redouble efforts to ensure optimal preparation of the simulation exercise as such, as well as of the different debriefing stages and the key messages that should be drawn from the experience.

a) Preparation for the simulation

- **The day before**, the facilitators should invite three or four participants in the workshop to support them during the simulation. These participants will play the role of individuals approaching the border, together with the rest of the facilitators.
- Two “border lines” are drawn (with masking tape) on the floor of the workshop premises, which those migrants/persons in need of international protection will attempt to cross.
- The workshop participants will play the role of border officials in the two different EU Member states of destination of the immigrants and asylum-seekers (Country A and Country B).
- When the participants enter the room, they will find the border already drawn on the floor and there will be four tables, each in one of the four corners of the room. They should find their names on one of those tables and remain there.
- At the beginning of the Session, the facilitator will explain that they are now going to do a simulation of a border official’s day at the border.
- Before starting with the simulation, the facilitator will project and explain the following Power Point slide with the instructions for the simulation ([here](#)).

Instructions for Participants

1. You are staffing a border guard post. There are two countries, namely A and B, with two border posts each. As a border official, you have been assigned to one of these posts.
2. This is a very busy day at the border and you need to get organized at your border post as there will be a lot to do and many decisions to be taken.
3. There needs to be one Senior Border Official in command of your border post. You have 5 minutes to choose the officer in command and assign different tasks amongst the other border officials.
4. You will be “on duty” for 45 minutes, that is, receiving people approaching the border and taking the appropriate decisions related to crossing the border, initial reception conditions and any other action needed.
5. After that, you and your group will have **1 hour** to draft the *daily incident sheet* with regard to each person with whom you have had to take specific action.
6. A form to this effect will be provided to you at the beginning of your deployment at the border.
7. During this 1 hour, you may receive important visitors, who you may need to speak to. Please make sure that somebody can receive them.
8. You may get in touch with border officials in the other border post in your country or in the neighbouring country.

b) Facilitators' roles during the simulation:

1. Each of the simulation facilitators, including the above mentioned participants who have joined to bring their support, will play different roles each. These roles will include persons of different profiles:
 - migrants without protection needs;
 - migrants with protection needs;
 - victims of trafficking; and
 - asylum-seekers.
2. Each facilitator playing the role of an asylum-seeker / migrant will try to cross the border and, in doing so, s/he will blow a whistle. The function of the whistle is to increase the tension in the room, as well as to raise the awareness of the border guards of his or her intention to cross.
3. Once a border official goes to the border to meet the asylum seeker / migrant, the latter will try to communicate. However, only half of them speak the language of the destination country. The others speak a different language (and thus cannot make themselves understood) or do not speak at all. They use body language.
4. They will also carry a little card that reads some basic information on their case, which they will hand to the border guard. He/she will then wait to see the reaction of the border officials. Border officials have different choices at their disposal (e.g. rejecting people at the border, bringing them to a transit centre, interviewing them, etc). These cards are available by means of the [current link](#).
5. Facilitators need to ensure that each group receives at their border post the 15 cases referred to above, although they do not need to receive them in the same order. To this end, if there are three facilitators, each could hand the same five cases to each of the groups and play those five roles repeatedly.
6. It is highly recommended that facilitators add a few cases that are relevant to the group of participants on the basis of the pre-workshop learning needs assessment. To this end, the facilitators should prepare in advance “presentation cards”, such as those mentioned in the previous paragraph. There should be one full set for each group.
7. Throughout the exercise, the border officials can be “bombarded” with noise and information that will be on the wall. To this end, the facilitators should play a recording with loud traffic sounds, people screaming etc. In addition, they could project a Power Point presentation showing every minute a new slide with an update of the situation: e.g. a baby among the new arrivals has fallen very ill; a pregnant woman has fainted, etc. This should be prepared by the team of facilitators in accordance with the specific profile of the participants, their geographical situation, etc.



4.2. Filling out Daily Incident Sheets

After some time of high activity, movements across the border will cool down and the facilitators will inform the border guards that they will have 1 hour to fill out the *daily incident sheets*, which will be sent to the capital.

An incident [sheet template](#) is reproduced below. Facilitators need to make sure that participants receive as many *daily incident sheet forms* as persons approaching the border (at least 15, and if facilitators develop additional cases as suggested above participants will need more copies).

Each group will sit at their border post. They will fill out one sheet per person, with whom they had an “incident” at the border, meaning, whenever they were obliged to take specific action because of the special profile of the person concerned.

Question 5 of the *daily incident sheet* explicitly requests that the border officials mention how they identified the *incident*. This is relevant for the later debriefing; it will set the stage for facilitators to discuss ways to identify protection needs, which are the most common signs of distress, possible victims of trafficking, need to lodge an asylum application, etc. The template for the sheets looks as follows:

DAILY INCIDENT SHEET

BORDER POST

OFFICER’S ID

DATE

1. Family name / given name(s):.....

2. Date of Birth:.....

3. Nationality:

4. Personal documentation:.....

5. Incident (pls. indicate first how did you become aware or were notified of incident)

6. Action taken:.....

7. Suggested next course of action:.....

8. Further comments / other information.....

While they are filling out the incident forms, some facilitators will play the role of UNHCR Protection Officers, FRONTEX Liaison Officers and NATIONAL REFERRAL INSTITUTIONS. They will sit with them for a couple of minutes and offer their support wherever needed.

The facilitators will need to identify and play the role of the relevant national referral institutions that is most appropriate for that specific group of participants, as identified by the border official. The choice should be based on the pre-workshop learning needs assessment.



4.3. Debriefing

The debriefing after this simulation exercise is one of the most important activities in the whole workshop. It involves on the one hand expressing and sharing very strong personal emotions that arise in day-to-day border control activities, but that had not been verbalized so far; and, on the other hand, it involves recognizing attitudes and reactions that may weaken or even obstruct access to international protection.

A well-organized and constructive debriefing will contribute to higher awareness on the importance of personal attitude in the context of border control, as well as a better understanding of international protection standards and norms in the same context.

After the first part of the debriefing - on feelings and emotions - the facilitator will take the floor and make a brief presentation on the psychological effects of working with victims of trauma and in stressful environments in the migration control context. Such a presentation will help participants understand and put a name to some of their reactions during the simulation and make the respective associations to their day-to-day challenges. In addition, the presentation will help both the facilitator and the participants find a “shared understanding”, where challenges are acknowledged and incorporated into a constructive learning experience.

The debriefing will have the following structure:

- I. Debriefing on feelings and emotions arising during and after the simulation;
- II. Presentation on the impact of working in a complex border environment;
- III. Debriefing on decisions made and action taken;
- IV. Summary presentation of key protection messages.



4.4. Debriefing Part I: on feelings and emotions arising during and after the simulation

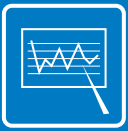
Ask first the participants who played the role of border guards and then those who played the role of migrants / asylum-seekers: “How did you feel throughout the exercise”?

- Possible answers of the border guards may include: *“I got really stressed because of all the information that we were bombarded with”, “I did not know what to do with those people who did not speak”.*
- Possible answers of the migrants/asylum-seekers may include: *“I felt completely ignored by the border guards”, “I got angry when I realized that they did not make any effort to find out my story”, or “I was afraid that they would send me back”.*



Facilitation Tip 5: Debriefing on feelings and emotions

- Several of the participants – inter alia because of the stress experienced during the exercise – may show rather strong emotions which need to be expressed and integrated. To integrate those feelings, the facilitator needs to conduct this session in a way that participants are reassured that whatever feelings they have experienced, whether positive or negative, are legitimate.
- Acknowledging such feelings and emotions is an important part of the learning process as it will greatly contribute to increased self-awareness. **This will, in turn, strengthen communication skills and help in the decision-making process later on.**
- It would be useful to ask the participants whether they can associate any of those feelings to their day-to-day work. If some nod with their heads, the facilitator should ask them if they can recall a concrete event where they felt overwhelmed, stressed, or just powerless to deal with the situation.
- In group reflections like this, it is important to find a shared understanding between the facilitator and the participants, where all are able to share a common language. In this context, it is useful if the facilitator can bring up personal experiences that may have triggered similar feelings or emotions in his or her work, even if it is not specifically related to border control; it could be a tense situation in a refugee camp, a large refugee outflow, etc.



4.5. Debriefing Part II: Presentation on the impact of working in a border control environment

A Power Point presentation is available by means of the [current link](#).

1. The complexity of working in border control areas

As with anyone working in complex environments, including with persons in distress, the challenges that surround the work of European border officials can have an impact on their own psychological well-being. In turn, this can affect the effectiveness and quality of their work.

In the discharge of their duties, border officials can experience varied emotions, ranging from compassion, through indifference to rejection of the individuals they deal with on a daily basis. At the end of the day, this will also have an impact on their ability to respond objectively and empathetically to the different situations at the border and take appropriate action.

Extensive research on the work of institutions dealing with victims of trauma or human rights violations as well as more generally with people in need, has shown the kind of psychological strain that such kind of work may place on staff, particularly those working on the ground in daily or regular contact with people in need.¹

Individuals working for border control agencies are probably no exception. Not only are they exposed to people's suffering and trauma on a recurrent basis; they are also given the immense task of guarding the EU external borders against irregular crossings and criminal threats, whilst at the same time protecting the fundamental rights of all involved and ensuring the efficient flow of legal cross-border transit.

In addition to such vast responsibility, border officials operate with several constraining factors. First, while they are made responsible for stemming the irregular migratory movements of people towards Europe, limited channels are available for regular migration, such as temporary work permits. Thus, border officials retain the enormous task of managing one of the few entry gates into the European Union, including for persons in need of international protection.

Second, because their work entails dealing with fundamental human rights of those crossing the external borders, European border officials often operate in a political minefield; on the one hand they are bound by national and regional legislation which aims at curbing any kind of irregular means to access the European Union or other Member State. On the other hand, they are bound by international human rights standards, which are, however, not articulated in detail in their procedural rules or protocols despite the incessant need for quick and clear responses, characterizing the situations of asylum-seekers and migrants arriving at the external borders.

Third, and as a consequence of the above complexity, it is often the case that border officials find themselves under fire from political parties, the media, humanitarian organizations and refugee or migrant organizations.

Fourth, and most importantly, if we consider that border and entry officials usually operate within police structures, such constraints are even harsher, as police are used to act in accordance with clear rules, established protocols and internal instructions. Border control can be a difficult and confused working environment where, despite all efforts on the migration management front, migrants continue to perish in high seas, some manage to get through the external borders, and those intercepted or detained at border points claim unfair and undignified treatment. Particularly in "hot spots", such as the southern borders of the EU, the complexities of the border control environment inhibits perfectionism and may cause border officials to "look unprofessional", not only vis-à-vis the outside world, but also within their own working environment.

¹ This presentation is greatly based on two articles on the psychological effects on humanitarian workers of working with refugees and in conflict situations. The facilitator may offer interested participants a copy (they are included as background reader for facilitators). The articles are Mark Walkup, *Policy Dysfunction in Humanitarian Organizations: The Role of Coping Strategies, Institutions and Organizational Culture*, Journal of Refugee Studies, 1997, Oxford University Press and the article by Barbara Harrell-Bond, *Can Humanitarian Work with Refugees be Humane?*, Human Rights Quarterly 24 (2002) 51-85, The John Hopkins University Press.

Other complicating factors include logistical challenges, such as the unpredictability of arrivals, complex migrant travelling routes, clandestine networks of human smuggling and trafficking, drug trafficking and the difficulties of communication with all those crossing the borders originating from a myriad of different cultures.

Thus, there is an inherently contradictory function in the task of border officials; they are expected to be able to secure the borders, whilst at the same time keeping these opened for all those who need to enter to save their lives or liberty.

2. The psychological consequences of working in such complex situations and coping mechanisms

Individuals working in such complex environments, whether in the context of border control, emergency aid or humanitarian relief, in order to cope are most likely to develop psychological defence mechanisms (both conscious and unconscious). Extensive research in the field has suggested that such defensive mechanisms develop through **various stages**:

Primary stage: recently recruited border officials, like many novices, may tend to compensate for an overwhelming workload by working harder, faster and better. In itself, a strong sense of responsibility is commendable – but faced with an overwhelming workload, it sometimes produces unfortunate consequences. In addition to this, border officials have to reconcile the above-mentioned tasks of protecting national security and upholding international human rights standards.

Second stage: As anybody in a similar situation, border officials may realize that working 20-hour days will not solve any problems. The nature and overwhelming workload is rarely reduced as a result of the sense of responsibility, good intentions and efforts. In addition, when such over-exertion is prolonged, the initial stressful situation may be accentuated and “burnout” may follow. The now clinically accepted term “burned out” refers to physical, emotional, and mental exhaustion.

Some symptoms associated with burnout are physical illness, acute tension, chronic fatigue, sleep disorders, depression, diminished coping capacity, negativism, apathy, inflexibility, cynicism, irritability and anger. The situation can worsen towards what is known as “vicarious trauma”. This is manifested in isolation from friends and family, extreme sensitivity towards violence and hopelessness. The person's ability to interact with others, her/his emotional skills and perceptions are all negatively affected.

In addition to the distressing personal consequences, this psychological state has negative professional consequences, since it becomes no longer possible to cope directly with the nature and amount of work by working harder, faster and better. Persons in these situations often develop a defence mechanism that leads them to distance themselves from their distressed clients. Faced with the overwhelming and sometimes contradictory task of protecting international borders and upholding human rights standards, border officials might seek more efficient alternatives and resort to physical and emotional distance to the human experiences they are confronted with. This is actually a healthy response. It is an effective coping strategy for professional purposes, enabling border officials to complete tasks with relative efficiency without becoming overwhelmed by the severity of the situation and the individual stories in question.

However, emotional distance may be sought through physical distance from the migrants or passengers, whether regular or irregular and by reducing the time spent with them. Such distance conversely leads to avoiding dealing with problems. By reducing direct communication in the name of efficiency, touch may be lost with the human aspect of the work as well as with the dignity inherent to all individuals. Emotionally, the distancing may lead to closing our eyes to the migrants' humanity and developing indifference towards them.

This kind of distance can be accompanied by irony and cynicism, which is a commonly used strategy to cope with difficult situations, when an individual realizes that nothing that he or she does will ever be enough and feels somewhat guilty for it. Yet, what it most often means is that the person concerned has reached a preoccupying level of exhaustion and stress that needs to be urgently addressed.

Third Stage: When irony and physical distance no longer function as coping mechanisms, resentment and transfer of the cause of the situation from oneself or the system to the “other”, or the migrants might occur. Through this psychological process of transference, one can end up blaming “politics”, “superiors”, or in more general terms the “other” for all the errors that are inherent to the system one is attached to. While these external constraints indeed

are real, it is important to reflect to which extent some actions may have been miscalculated or poorly executed and thus contributed to the policy failures. Moreover, one unfortunate yet common response is to blame the “clients”, in this case migrants or asylum-seekers, themselves for their predicament, instead of addressing the real source of problems within the system. It would be interesting to reflect on whether this might also be the case in border control situations.

In the fourth and final stage, of such psychological processes, when reassigning the blame no longer satisfies and protects the sense of “self”, or when it is no longer possible to cover up the inadequacies, people working in such complex situations may develop a false illusion of success to be able to feel a sense of self-esteem and accomplishment in the midst of institutional and endemic failure. They may realize their relative impotence to remedy the inadequacies of the system; consequently they may construct an alternative reality of humanitarian benevolence, organizational accomplishment and response to migrants’ needs.

At this stage, comprehensive improvement becomes even more difficult because, in the view of the persons involved *"Everything is working just fine. Sure, there may be some needs not being met, but the refugees and migrants are better off than we thought, they are generally happy people, and will pull together and help themselves."*

Further, as many have observed, when the capacity to cope with a situation falls short of the enormous needs, the urgency of the latter often becomes magically less severe. While the needs and situation have not changed, the workers may simply have adjusted their perception of the needs to match the limited capacity to cope with the situation.

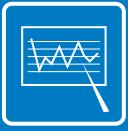
3. What can be done to maintain a healthy approach and professional attitude?

These coping mechanisms are not isolated to the individuals working in the field or other complex locations. On a more complex and deeper level, they may even form the basis of a common organizational culture. As a result, the inherent problems and shortcomings encountered within the day-to-day structure remain unaddressed. Yet, changes can only occur after an admission of the need for addressing shortcomings and inefficiency.

At the outset, as far as the work of border officials is concerned, it is crucial that critics as well as insiders recognize that border officials are subject to abnormally intense pressures. This does not exonerate them from wrongdoings or excuse them from actively pursuing the additionally difficult challenge of improvement. Rather, it imposes an obligation on the relevant institutions and on the individuals themselves to take every possible step to ensure a healthy approach to their work. In order to meet the tremendous needs of persons on the move trying to cross an international border, the persons responsible need to undertake their tasks with a healthy attitude.

This normally requires specific measures which, if not built into the system, need to be taken by individuals wishing to maintain a balanced and equitable approach to their work. Such measures include:

- We should always ensure that our actions are not isolated, but rather form part of a coherent chain of actions by all relevant actors who need to be involved. It is vital to maintain close links with National Referral Institutions to complement the actions of border officials and ensure that appropriate solutions are found for each particular case. Such institutions can be governmental or non-governmental (i.e. asylum departments, NGOs dealing with victims of trauma, national institutions for the protection of unaccompanied children, etc);
- At the same time, it is important to continue to limit our focus of attention on the reality that stands before us (i.e. a migrant in a certain situation with specific needs) and to deal with it without thinking of other people in similar situations or of the consequences of our individual actions on the “life” of the person involved. It is important to communicate with the persons we serve in as much depth as possible, to find the best ways to assist them and to also help them comply with existing laws and procedures. The better we understand the needs of those we deal with, the more effectively we will be able to respond.
- Finally, very simple but essential measures include rotation from border “hot spots” to more routine-like locations; receiving ongoing psychological support, or at least after especially difficult assignments; participating in peer support networks; or taking annual leave regularly, instead of accumulating leave days.



4.6. Debriefing Part III: on decisions made and action taken with regard to individuals

The facilitator will ask each group to read out their *daily incidents sheets* with regard to three of the cases of the simulation (out of the 15 that were presented to the groups during the simulation). The table below contains the 15 case studies, with the same information received by participants through the cards given to them by the different asylum-seekers or migrants.

The right hand column contains some key messages that should come up in the course of this part of the debriefing. In any case, the cross-cutting general message should be the need for border and entry officials to ensure that the principle of *non refoulement* is upheld and that persons in need of international protection or humanitarian assistance have access to it.

In the discussion around each of the cases, it will be important to encourage participants **to draw on their common sense** as regards border procedures to be put in place to avoid situations of *refoulement*, rather than putting emphasis on legal principles and norms. This is extremely important for two reasons:

- Firstly, considering that this may be only the second day of the training, participants will not yet be very familiar with the international standards for refugee protection, as well as for protective migration control mechanisms. They should not feel under too much pressure to know issues that have not been yet addressed.
- Secondly, while the EU has developed standard operating procedures for the identification and referral of persons seeking international protection, namely the Reception Conditions Directive, the Asylum Procedures Directive and the Dublin Regulation, a collective consensus on their application at borders has not yet emerged. It is therefore important that the exercise contributes to foster a sense of responsibility for border officials to create what could be called a “protective environment” at the borders, using their own logic and initiative.

For this reason, it will be also important to devote some minutes to discussing in each case how the border officials came to identify that a person may wish to seek international protection. e.g. was it as a result of observation? Or was it due to specific statements by the person?

DEBRIEFING ON DECISIONS MADE AND ACTION TAKEN: DAILY INCIDENTS REPORTS

Information available to participants on individuals approaching the border	Key messages
<p>1 - Vanessa</p> <ul style="list-style-type: none"> - Sex: F - Age: 20 - Nationality: Colombia - Documentation: false - Other info: She is in a very advanced state of pregnancy. <p><i>"I am a refugee", she states.</i></p> <p>She comes with a lot of "official" documents from the Colombian authorities certifying that she is persecuted.</p>	<ul style="list-style-type: none"> - The first priority is to ensure that Vanessa has access to medical care and a place to rest. - If she says that she is a refugee, she should be granted access to the asylum procedure. Moreover, she originates from one of the larger refugee-producing countries, with high recognition rates in some EU Member States. - The fact that she seems to have "false" documentation is a breach of the law. The EU Asylum Procedures Directive allows for the channelling of such applications through accelerated procedures. But in any case, access to asylum procedures must be granted. <p>Moreover, the fact that she carries a large number of fake official documents could be an indication that she has paid money to a smuggling network to get her out of her country and they may have fabricated an asylum claim giving her assurances that she will be admitted into the territory this way.</p> <ul style="list-style-type: none"> - Once she gets access to the asylum procedure, she will be able to explain her situation in more depth. It is often the case that refugees have to buy the services of smugglers to make their way to Europe. In doing so, they are often given a false asylum story by their smugglers to gain admission in the country. Through an interview, the real story may come out, revealing that he or she IS a refugee. - Efforts should be made, if possible, to ensure the availability of a female officer to interview persons in these circumstances to build confidence and provide a more conducive environment.
<p>2 - Abou</p> <ul style="list-style-type: none"> - Sex: M - Age: 32 - Nationality: Afghan - Documentation: ok - Other info: His documents are in order and he has a return ticket, which shows that the return date is in two weeks' time. <p><i>"I want to talk to "Mister hashsheerr" (Mr. HCR)</i></p> <p><i>"My situation back home is impossible. I am desperate. I cannot even stay in Pakistan. There, it is dangerous as well and I cannot look for a job there either".</i></p>	<ul style="list-style-type: none"> - He should be allowed access to the territory, as his identity has been established and he has all documentation in order. - The fact that Abou comes from Afghanistan already triggers the question of whether he may be in need of international protection. In addition, it is strange that somebody with a two week return ticket says that he cannot return home. - His statement that he cannot stay in Pakistan either because it is dangerous as well should lead one to ask whether it is dangerous for him also in Afghanistan. - It is irrelevant that he does not know who UNHCR exactly is. It simply shows that there is an asylum component in his situation and he should be facilitated contact with UNHCR or whatever national agency assists asylum-seekers. This right is foreseen in a number of legal instruments, particularly the EU Directive on Asylum Procedures (Art.21) or the EU Directive on Reception Conditions (Art. 14.7). Both Directives, applicable once a person has sought asylum, make it compulsory for EU Member States to guarantee access to UNHCR, as well as vice-versa. - He should be given information on the asylum procedure, as well as his rights and obligations around it.
<p>3 - Joao</p> <ul style="list-style-type: none"> - Sex: M - Age: 17 - Nationality: Angolan - Documentation: None - Other info: He looks older than 17, but he insists on that age. He has no documents and says that he cannot go back to Angola. <p><i>"I am fleeing the war. I will not go and get myself killed for them".</i></p> <p>(Background note: The civil war in Angola finished about ten years ago).</p>	<ul style="list-style-type: none"> - The fact that he says that he is 17 but looks older, does not necessarily mean that he is lying. Different cultures have different physical characteristics. Since the law foresees a number of additional guarantees for minors, in order to avoid irreversible violation of his rights, he should be given the benefit of the doubt and directly handed over to national child care institutions who may wish to resort to age determination tests. - There are a number of procedures to confirm the age of children. It must be however noted that such procedures have a large margins of error. The fact that the war in Angola ended years ago does not mean that he cannot flee a war. Angola is fighting in support of Government forces in the Democratic Republic of Congo. It could be that Joao is afraid of being recruited to go to war. - He should not be detained as in the case of children, detention, including administrative detention, should always be a measure of last resort [This will be dealt with later in the training materials, Session 7] - Even though, as a child, he should be allowed entry in the country of destination until a solution is found, Joao has the right to apply for asylum, independently of his age or of the fact that he is receiving any kind of support. He should receive information about the asylum procedure. - In the case of unaccompanied children, action should be taken immediately to locate their families in the country. The Red Cross provides an international tracing and messaging service. However, since Joao is 17 years old and he could fear persecution in his country, great caution must be exercised in making contact with any persons of his nationality. - Finally, once Joao is admitted to the territory of the State, he should be provided with documents that show that he has applied for asylum and certifying that he is allowed to stay in the territory of the state while his application is pending. Although this applies to all asylum-seekers admitted into the territory, the fact that Joao has not achieved majority age and that he is undocumented make it even more imperative for him to be provided with such documentation.

Information available to participants on individuals approaching the border	Key messages
<p>4 - David</p> <ul style="list-style-type: none"> - Sex: M - Age: 14 - Nationality: Senegalese - Documentation: None - Other info: "I want to work" 	<ul style="list-style-type: none"> - If David is 14, that means that he is a minor. As such, he cannot be returned to his country until his parents or legal guardians have been identified and proper reception arrangements have been made for his return. - He should not be detained, as in the case of children detention, including administrative detention should always be a measure of last resort [This will be dealt with later in the training materials, Session 7] - The national referral institution responsible for children should be immediately contacted and David handed over to his assigned legal guardian. - From the moment of his admission to the territory, schooling needs to be provided (UNCRC and EU Reception Directive, art. 10)
<p>5 - Maia</p> <ul style="list-style-type: none"> - Sex: F - Age: 30 - Nationality: Tajik - Documentation: forged - Other info: She does not want to speak or answer questions. She looks malnourished and pale, as well as highly anxious. She carries a copy of a contract to work as a bi-lingual secretary for a senior executive in the country of destination. 	<p>The description seems to be that of a victim of trafficking. Maia should be referred immediately to qualified personnel who could, through appropriate communication techniques for such cases, undertake a more in-depth assessment of her situation and make the necessary recommendations to take a decision on her situation.</p> <p>Immediate protection measures may also be taken, such as:</p> <ul style="list-style-type: none"> - try to identify whether, despite the fact that she seems to be travelling alone, her traffickers or members of the trafficking network are travelling with her. - If she is placed in detention, ensure that she receives proper psychological and social attention by specialized personnel. - Ensure that she will not be trapped again in a trafficking network by returning her without sufficient protection guarantees, or detaining / returning her together with her traffickers, etc.
<p>6 - Hassan & family</p> <ul style="list-style-type: none"> - Sex: M - Age: 25 - Nationality: Moroccan - Documentation: has passport but no visa <p>Other info: He is there with his wife and five children. He wishes to apply for asylum.</p>	<ul style="list-style-type: none"> - While a situation in a country of origin may not appear to particularly give rise to protection considerations, it is not up to entry officials to decide whether the applicants are indeed refugees or not. Access to a regular asylum procedure must be granted, particularly if the person states that they wish to apply for asylum. <p>Sometimes, national legislation provides for accelerated procedures for persons entering irregularly the territory of EU Member States.</p> <ul style="list-style-type: none"> - Hassan and his family should be granted access to an asylum procedure. - Entry officials should try to also talk to Hassan's wife and the children to ascertain their individual situation - Family detention should always be avoided and resorted to only as a measure of last resort. Families should be kept united. [This will be dealt with at a later Session on detention & return].
<p>7 - Ibrahim</p> <ul style="list-style-type: none"> - Sex: M - Age: 22 - Nationality: Eritrean - Documentation: None - Other info: wants to apply for asylum. He has an entry ban issued by your EU MS just one year ago because of violation of national laws. The entry ban into the EU MS is valid for three years. He states that he cannot go back because of fighting. 	<ul style="list-style-type: none"> - There is an apparently contradictory situation, since the person has an entry ban whilst at the same time is applying for asylum. - While the entry ban may result from the EU Return Directive or other national laws, any entry bans should be applied without prejudice to the principle of <i>non-refoulement</i>. Nobody should be returned to a place where he/she may be facing persecution or where their life or liberty may be at risk. - UNHCR has issued a return advisory note applying to Eritrean nationals: in particular men of military age should not be returned to Eritrea, as they risk forced recruitment into the army, which is equivalent to persecution. - The fact that UNHCR has issued a return advisory may ultimately affect the kind of legal status that he may be granted once his asylum application has been considered. It is not a matter to be considered at the border. - The fact that somebody with an entry ban returns to a country and seeks protection may be perceived as an abuse of the system. However, his fundamental right to life and liberty should override migratory considerations. - His case should be considered for the possible lifting of the re-entry ban, in accordance with national procedures.

Information available to participants on individuals approaching the border	Key messages
<p>8 - Mustafa</p> <ul style="list-style-type: none"> - Sex: M - Age: 35 - Nationality: Iraqi - Other info: He has military documents, certifying that he is a soldier of the former Iraqi Republican Guard. He carries a piece of paper that states “UNHCR, asylum”. 	<ul style="list-style-type: none"> - This case may be considered as constituting a potential exclusion case. - The information on Iraq may indicate that such persons may have been involved in serious human rights violations in the past. International protection is not intended to help individuals to flee “prosecution”, but it is only intended to help persons with fear of “persecution”. [This issue has been dealt with in Session 3, when looking at the 1951 Convention definition of refugees and exclusion clauses.] - Again, however, since Mustafa has applied for asylum, whether he is a refugee or whether he is fleeing justice is not a matter for border authorities to decide. - Notwithstanding the above, taking into account the profile of the case, it may be necessary to consider security measures to ensure that Mustafa abstains from absconding, etc. such as confining him to a specific location until a decision on his application and migratory status has been taken. - Such a decision, however, must be taken with the appropriate legal safeguards, such as confirmation by a judge, availability of legal advice and judicial remedies to appeal against such decisions.
<p>9 - Paul</p> <ul style="list-style-type: none"> - Sex: M - Age: 15 but looks older - Nationality: Congolese from the Democratic Republic of the Congo (DRC) - Documents: none - Other info: he claims to be a former soldier of the Congolese insurgency. He is afraid of retaliation by the militias for deserting. 	<ul style="list-style-type: none"> - The fact that he says that he is 15 but looks much older does not necessarily mean that he is lying. Different cultures have different physical characteristics. Since the law foresees a number of additional guarantees for minors, in order to avoid irreversible violation of his rights, he should be given the benefit of the doubt and handed over to national child care institutions. - There are a number of procedures to confirm the age of children. Still, it must be noted that such procedures have a large margin of error. Being perhaps a former “child soldier” (though the appropriate terminology is “child associated with armed groups”) Paul may have been involved in acts contrary to international humanitarian and human rights law which, in principle, could make him excludable from the international protection afforded under the 1951 Convention. This issue is related to his legal responsibility at the age of having perpetrated the relevant acts. [This is looked at under Session 3 on the 1951 Convention refugee definition.] However, once again, this is not an issue for the judgment of entry officials. On the contrary, it is of utmost importance that Paul is granted access to the territory in order to get appropriate representation and legal assistance to go through the asylum procedure. - It is important to note that Paul’s profile could indicate possible trauma and other serious psychological injuries.
<p>10 - Irina</p> <ul style="list-style-type: none"> - Sex F - Age 19 - Nationality: Romanian - Documentation: seems ok - Other information: She looks younger than the age reflected on her personal documentation. She does not want to talk. She looks scared. 	<ul style="list-style-type: none"> - The fact that Irina’s documents are in order does not exempt entry officials from further exploring whether she may be a victim of trafficking. The fact that she looks scared and refuses to talk could give an indication of such situation. - Irina should be referred immediately to qualified personnel who could, through appropriate communication techniques for such cases, undertake a more in-depth assessment of her situation and make the necessary recommendations to take a decision on her situation.
<p>11 - Innocent</p> <ul style="list-style-type: none"> - Age 45 - Sex M - Nationality: Rwandan - Documentation: tourist visa - Other information: Innocent has a serious expression, he does not speak. 	<ul style="list-style-type: none"> - This case has been included to raise the issue of non-discrimination or stigmatization on account of race, nationality, etc. It aims to highlight the complexity of entry official’s tasks, which have to balance border control functions with the free circulation of bona fide travellers. - Innocent is a man from a developing country, with a tourist visa, no willingness to talk, originating from Rwanda – a country known for its atrocities during the 1994 genocide which saw the mass killings of over half a million Tutsis. - Entry officials may fear that, although Innocent may enter the country as a tourist, he does not have the intention to return to his country of origin. - Innocent has all his documentation in order. He should be allowed to enter the territory in application of the principle of non-discrimination and equality before the law. Border officials cannot refuse entry of a documented person based on the mere suspicion that the person is not really a tourist and anticipation of a breach of immigration law by the individual.
<p>12 - Rashid</p> <ul style="list-style-type: none"> - Sex: M - Nationality: Afghan - Age: 32 - Documentation: None - Other info: He begs for help. He looks weak and scared. He states that outside Afghanistan is even more dangerous than Afghanistan itself. Still, he says that he cannot go back to Afghanistan for fear for his life. 	<ul style="list-style-type: none"> - It is important to find out more information on Rashid. The fact that he looks extremely weak and scared, coupled with his statement that <i>“It is more dangerous outside Afghanistan than in Afghanistan itself”</i> may be an indication of trauma or having been a victim of some kind of abuse or ill treatment. - Moreover, the fact that he states that he cannot go back to Afghanistan for fear for his life triggers the need to inform him of the possibility to apply for asylum and the consideration of non-return obligations, such as the principle of <i>non-refoulement</i> of the 1951 Convention and Art. 3 of the European Convention on Human Rights.

Information available to participants on individuals approaching the border	Key messages
<p>13 - Zahra</p> <ul style="list-style-type: none"> - Sex: F - Age: 45 - Nationality: Somali - Documents: none - Other information: Zahra says that she fled poverty and exploitation in southern Somalia. 	<ul style="list-style-type: none"> - Because Zahra originates from Somalia, a country devastated by war and its population suffering for decades from systematic human rights abuses, she should be granted access to the territory of the State to look at her situation more closely. - In addition, there is a UNHCR advisory on the return of Somali asylum-seekers, which highlights that all those coming from central and southern Somalia should be granted at least leave to remain as their return to their country of origin may expose them to human rights violations. - Zahra obviously does not know that she has the possibility to apply for asylum. Entry officials should inform her of the existing procedures and available counselling services.
<p>14 - Name: unknown</p> <p>New-born Sub-Saharan Africa. Name, identity unknown Sick baby of an undocumented mother: high fever and repeated vomiting.</p>	<ul style="list-style-type: none"> - Emergency health considerations should always prevail over migratory concerns. The child should be granted immediate access to emergency health care. (European Convention on Human Rights (ECHR): right to life). - He should not be separated from his parents under any circumstances, even if the parents are undocumented. (ECHR: right to family unity).
<p>15 - Name: unknown</p> <p>Woman in advanced state of pregnancy.</p>	<ul style="list-style-type: none"> - Emergency health considerations should always prevail over migratory concerns. - She should be granted access to adequate health care, independently of her lack of documentation. In any case, the EU Directive on Reception Conditions states that Member States shall ensure that applicable material reception conditions are available to applicants when they make their application for asylum. - She should be referred to a national institution able to provide adequate care.



4.7. Debriefing Part IV: Presentation with summary of key protection messages from the simulation

After the debriefing on the 15 case studies, the facilitator will make a presentation trying to sum up the main key messages that can be drawn from the case studies.

A Power Point presentation to this effect is available by means of the [current link](#).

The key messages that should be raised during the presentation are as follows:

1. Access to asylum procedures is the main safeguard of protective border control mechanisms

The principle of *non refoulement* contained in Article 33 of the 1951 Convention implies the right to admission to the territory and the right to stay until any claim for refugee status is determined.

The principle of *non refoulement* concerns persons within the territory of a state, including its territorial waters, but also at the border and any refugee coming within the authority of an asylum state extraterritorially. It applies whether or not the persons have been formally recognized as refugees, and includes not only a threat to life or freedom on account of race, religion, nationality, membership of a particular social group or political opinion, but also a risk of being exposed to torture, to inhuman or degrading treatment or punishment.

For the principle of *non-refoulement* to be effective, access to a procedure for the determination of refugee status is crucial. The quality of the initial contact between an asylum-seeker and the State's official is, therefore, very important.

An incorrect decision at the point of access to the territory or failure to pass on the asylum request to the competent authority could have serious consequences for the applicant. It is therefore essential that those officials who first come into contact with asylum-seekers are fully aware of international legal requirements.

2. The concrete role of border officials

Asylum seekers should never be interviewed by police or border officials on the substance of their asylum claim. This is the role of other officials (from different ministries or authorities, depending on the country) mandated to take substantive decisions on refugee claims. Among other reasons for such a division of responsibilities is the need to ensure that the asylum-seeker has adequate information about her/his rights before a substantive interview takes place; the need to ensure that specially trained officials will study the asylum claims and the fact that asylum-seekers should have adequate time to rest and recuperate after what has most likely been an arduous journey, instead of being subjected to an asylum interview.

Rather, border officials have a positive responsibility to identify persons who may wish to apply for asylum, to register applications and refer them to the relevant determining authority; they have the duty to recognize and respond in a protection-sensitive and rights-respecting way to persons who present themselves at the border and who may wish and/or need to seek asylum.

In addition, border officials have the responsibility to identify persons with other protection needs and take immediate action in that regard. To this end, it is essential that they build links with national referral institutions, that they know their mandates well and have their co-ordinates at hand.

(Facilitators should brainstorm with participants on which are the key national referral institutions, both governmental and non-governmental, that are relevant in their respective locations).

Border officials have very limited time to reflect and take a decision on each person they come across. Hence, the key principles of their actions have to be well understood and assimilated, so that they can apply them across the board in the different circumstances.

Some of these principles include:

- All persons arriving at the border of a State should be treated with full respect for human dignity, as mandated by the Universal Declaration of Human Rights or the Charter of Fundamental Rights of the European Union.
- As representatives of the State, border officials are bound by obligations under international law which prohibit discrimination on any grounds.
- No information, including the name of an individual asylum-seeker or members of her or his family, should be shared with consular officials of their countries of origin without the express, voluntary and informed permission of the individuals. Information provided by an asylum-seeker must be treated as confidential as it is considered to be the property of the asylum-seeker. A breach of the confidentiality principle could pose a serious risk to the person and his or her family of being targeted by the authorities.

3. Ensuring access to the asylum procedures

Whether a person has fraudulent documents, no documents at all or has entered irregularly, everybody has the right to seek asylum and therefore to have access to an asylum procedure. Some countries, as foreseen by the EU Asylum Procedures Directive, will channel such applications through so-called accelerated asylum procedures. Yet, even such procedures are to have the necessary safeguards pertaining to due process.

Border officials should pay particular attention to undocumented persons arriving from war-torn countries. The latter should be given the opportunity to express any protection concerns they may have. There is a strong likelihood that they may be entitled to some form of protection, even if they do not seem to fall under the 1951 Convention refugee definition.

For some trafficked persons, where there are indications that they cannot return to their country or place of origin due to a well-founded fear of persecution, access to the asylum procedure will be the most appropriate avenue to pursue. In any event, all victims of trafficking should be properly informed of their right to seek and enjoy asylum.

Asylum-seekers must be allowed to remain in a country, for the sole purpose of the asylum procedure, until the determining authority has made a decision. Moreover, in case permission to enter is refused by a competent authority, this competent authority shall state the reasons in fact and in law why the application for asylum is considered as unfounded or as inadmissible.

Border officials should immediately inform, without exception, the competent central authority of all asylum requests. If national standard operating procedures (SOPs) to do so are not in place, border officials should take the initiative to discuss with their relevant national counterparts the development of such SOPs based on the national legal framework and international standards.

4. Facilitating access to information

Asylum-seekers should be informed immediately at the border, in a language which they can understand, of the procedure to be followed and of their rights and obligations during the procedure and the possible consequences of not complying with their obligations.

The information should be given to asylum-seekers with enough time to enable them to exercise their rights, and in any case to avoid any irreversible limitation on their rights.

All persons seeking protection should be afforded information on organizations or groups of persons that provide specific legal assistance to asylum-seekers and migrants and organizations that may be able to help or inform them concerning the available reception conditions, including health care. This includes information on how to contact UNHCR and national actors working for the protection and assistance of asylum-seekers and refugees.

Accessible information should also be available with regard to their situation and their rights, including protection mechanisms, other available services, and the processes of family reunification and/or repatriation. Ideally, there should be brochures at border posts with basic information. These brochures should be available to the public in general passing through that border point.

5. Ensuring access to interpreters and legal assistance

Interpretation

Asylum-seekers should have an interpreter translating into a language they can understand. Lack of communication on grounds of language or cultural barriers may result in asylum-seekers being unable to explain the circumstances surrounding their cases and to express their wishes to seek asylum.

Legal assistance and representation

Asylum-seekers should be granted access to legal assistance, if needed. **Legal assistance and representation** can be provided by migrant or refugee associations, bar associations, UNHCR in some cases, and other organizations.

Border officials must ensure that when individuals are detained in closed areas (detention facilities and transit zones) the legal adviser or counsellor who assists or represents an applicant for asylum has access to him/her for the purpose of consulting that applicant. They may only limit the possibility of visiting applicants in closed areas in situations foreseen by national legislation. Legislation can only impose limitations where they are objectively necessary for the security, public order or administrative management of the area, or in order to ensure an efficient examination of the application, provided that access by the legal adviser or other counsellor is not thereby severely limited or rendered impossible.

Border officials must allow UNHCR, at the least:

- (a) access to applicants for asylum, including those in detention and in airport or port transit zones; and
- (b) access to information on individual applications for asylum.

6. Ensuring the protection of persons with specific needs

Border officials should be on the alert for possible protection or other needs of those persons attempting to cross the border. As the first and sometimes only representatives of the State entering into contact with these persons, they have the responsibility to ensure that appropriate action is taken to protect their rights, including through referring them to the relevant national institutions.

Concretely, they must tackle emergency health considerations immediately in the course of border control. Such health considerations should take priority over migratory concerns.

All actions in relation to children encountered at the border, defined as persons below the age of 18, should always maintain their best interests as the primary consideration, in accordance with their rights under the Convention on the Rights of the Child.² Unaccompanied minors and separated children at the border should be immediately referred to the national child care institutions. Those seeking protection should never be refused entry or subjected to detailed interviews by immigration authorities at the point of entry. Border officials should limit their interviews to gathering basic information about the child's identity. Where an adult accompanies children, it will be necessary to establish the nature of the relationship between the child and adult.

Minors should not be detained. In the case of minors, detention (including administrative detention) should always be a measure of last resort. Furthermore minors should not be kept with adults who are not related to them, unless

² The UNCRC has been ratified by all European countries and most countries around the world, with the exception of the USA and Somalia.

this is within the framework of clear foster care arrangements with regular supervision and assessment by qualified persons.

Trafficked persons are victims of serious crimes and should not be held in detention simply because they do not have legitimate travel documents through no fault of their own. Rather, they should be provided with necessary psychological, medical and any other support required in their situation.

Female asylum-seekers may wish to speak to a female border or immigration officer. Whenever possible, they should be given the choice.

Family unity should be preserved to the extent possible and minors should not be separated from their parents.

As a key measure, border guards should develop contacts **with national referral institutions** specialized and mandated to respond to the specific needs of persons in these circumstances.

7. Ensuring freedom of movement of asylum-seekers

Nobody should be held in detention for the sole reason that he/she is an applicant for asylum

[A more in-depth discussion on detention will take place in the context of return procedures, Session 7].

The detention of asylum-seekers should only take place during limited periods of time to allow the authorities to verify the asylum-seekers' identity or essential elements of the asylum claim. In any case, authorities should seek any other possible alternatives to detention. These may include imposing reporting obligations requiring the applicant to come periodically to the nearest police station, informing of place of residence and any possible changes, etc.

In application of the EU Asylum Procedures Directive, when a decision on the asylum application has not been taken within four weeks, the applicant for asylum shall be granted entry to the territory of the Member State in order for his/her application to be processed in accordance with the other provisions of this Directive.



Background documents and further reading for facilitators

- United Nations High Commissioner for Refugees (UNHCR), *Guidelines on Formal Determination of the Best Interests of the Child*, 2007 [↗](#)
- UNHCR, *Refugee Protection and Mixed Migration: A Ten Point Plan*, Rev. January 2007 [↗](#)
- UNHCR, *Implementing the Ten-Point Plan of Action in Southern Europe: Activities Undertaken by UNHCR to Address Mixed Migration in the Context of the Mediterranean/Atlantic Arrivals*, October 2006 [↗](#)
- UNHCR, *The State of the World's Refugees 2006, Human displacement in the new millennium*, 2006 [↗](#)
- UNICEF *Reference Guide on Protecting the Rights of Children Victims of Trafficking in Europe*, 2006 [↗](#)
- EU Regulation of the European Parliament and of the Council amending Regulation (EC) No 562/2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code), as regards the implementing powers conferred on the Commission, 15 March 2006 [↗](#)
- EU Council Directive 2005/85/EC of 1 December 2005 on *minimum standards on procedures in Member States for granting and withdrawing refugee status* [↗](#)
- Separated Children in Europe Programme, *Statement of Good Practice*, 3rd Edition, 2004 [↗](#)
- EU Council Directive 2003/9/EC of 27 January 2003 *laying down minimum standards for the reception of asylum seekers* [↗](#)
- Mark Walkup, *Policy Dysfunction in Humanitarian Organizations: The Role of Coping Strategies, Institutions and Organizational Culture*, Journal of Refugee Studies, 1997, Oxford University Press. [↗](#)
- Barbara Harrell-Bond, *Can Humanitarian Work with Refugees be Humane?*, Human Rights Quarterly 24 (2002) 51-85, The John Hopkins University Press. [↗](#)
- *UN Convention on the Rights of the Child*, 1989. [↗](#)