UNHCR
The UN Refugee Agency

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

The objective of this matrix is to provide an overview of the main activities of UNHCR and partner responses with regard to the implementation of UNHCR's Ten Point Plan for Addressing Mixed Migratory Movements[1], on the European side of the Mediterranean Sea. Since most of the southern European countries are members of the European Union, the matrix focuses on activities and suggestion made for the EU and its Member States. The matrix addresses primarily on the needs of asylum-seekers and refugees, in line with UNHCR's mandate. It does not seek to address all aspects of migration management.

In the context of significant arrivals at the southern external EU borders, UNHCR shares the concerns of governments about the risks to human life posed by irregular migration by sea, as well as the need to develop comprehensive policies to support the particularly affected states.

The phenomenon of mixed migration toward the European Union's Southern borders cannot be addressed by enhanced border and migration control measures alone. Such movements will continue, and effective responses to changing arrival patterns should involve close co-operation among states within the European Union, as well as with governments of countries of transit and origin. UNHCR appreciates the common understanding that refugee protection based on asylum obligations in the EU *acquis* and international refugee and human rights law must be a key element of the response.

On the basis of its mandate as well as of the 1951 Convention relating to the Status of Refugees, and as a major partner of the EU in discussions about asylum as per Declaration 17 to the Amsterdam Treaty, UNHCR is willing to contribute actively to developing solutions for affected individuals and states seeking to address the mixed migration challenge.

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[1] United Nations High Commissioner for Refugees (UNHCR), *Addressing Mixed Migratory Movements: A 10-Point Plan of Action*, June 2006, available at http://www.unhcr.org/home/RSDLEGAL/44ca0eda4.pdf.

UNHCR's role in European Union Member States is mainly non-operational, involving capacity building, advocacy and monitoring functions linked to access, reception, asylum procedures and durable solutions. The Office also participates actively in a number of regional and multilateral fora, provides counselling and, based on its extensive experience with refugee flows and responses thereto, seeks to be a catalyst for the development of joint and comprehensive responses (e.g. towards a wider burden sharing arrangement within the European Union; support to and be part of tripartite repatriation agreements or; whenever appropriate and as a good offices initiative, facilitate bilateral agreements on return). UNHCR furthermore can provide information needed by governments and other partners for the assessment of claims and the identification of those in need of international protection.

Ten-Point Plan	Activities
1. **Collaboration among key partners**	The management of migration, including the establishment of a fair and efficient asylum system, is a government responsibility. Within the European Union, it is increasingly based on Community law. UNHCR and a large number of partners including sister agencies and civil society organizations are contributing to the development of policies and strategies. The key stakeholders have been identified, and sufficient number of fora established which could be used to develop and adopt strategies. Apart from the governments, the key stakeholders can be outlined as follows: • The European Union involving the Council, the Commission and the Parliament are based on their respective roles within the Union responsible for the development of policy proposals and the drafting of legal instruments. The Commission is a key funding source for initiatives by UNHCR and other stakeholders in European countries of arrivals as well as in countries of origin and transit. It is also a key interlocutor on the link between migration and development. The newly established Frontex agency is expected to become an increasingly important player as regards border/entry management. • IOM is playing a key role in migration management policy development. It supports the government Forum for Dialogue in the Western Mediterranean, also known as the "5+5 Dialogue" and has bilateral agreements with a number of governments on the implementation of voluntary return programmes. • Other important fora for international consultations include the Council of Europe (CoE), which has adopted various relevant resolutions and guidelines. The Organization for Security and Cooperation in Europe (OSCE) has also held regular meetings on Mediterranean migration movements. • On an informal and more operational level the Inter-Governmental Consultations (IGC) is a forum for a number of European states, as well as the U.S., Canada, Australia and New Zealand, to regularly

	exchange information on issues related to migration and asylum. The General Directors' Immigration Services Conference (GDISC) represents another informal grouping of Directors of Immigration Services in EU Member States, candidate states and other West European states, which discusses migration and asylum-related issues The International Centre for Migration Policy Development (ICMPD) has also together with EUROPOL initiated a separate Dialogue on Mediterranean Transit Migration (MTM) with the aim of establishing a project "Towards Comprehensive Response to Mixed Migration Flows". The launch of this project should take place later in 2006 in Portugal. • NGOs in the EU have at least three important roles: first as partners in counselling and monitoring; second, as being often responsible for social support and assistance; and third as important opinion-makers in many European countries. • Academic institutions have important roles in developing needed research and overviews on mixed migration movements and responses.
2. **Data collection and analysis**	• Within the European Union, UNHCR does not collect data, but provides overviews of asylum-seekers and refugee statistics based on data provided by governments. UNHCR shares the concern of many stakeholders that statistical information on movements between countries of origin, transit and destination is not adequate allowing the establishment of adequate overviews and trends which again could form the basis for improved policy development and responses. Only limited information is even available on actual flows between EU Member States beyond the possibility under the EURODAC system to identify where an asylum-seeker has first been registered. • UNHCR is co-operating with the International Maritime Organization (IMO), which collects data it receives on cases of rescue at sea and stowaways, although the data currently compiled by the organization is not sufficiently comprehensive. The European Institute in Florence has carried out important research on the situation which can be found on http://www.carim.org/. • Any improvement in the availability of adequate statistics and information related to these movements goes well beyond the capacity of any individual institution and will need very close and coordinated efforts particularly among the concerned governments. UNHCR though based on the current development of asylum statistics is available to participate in any such arrangement to improve the availability of adequate statistics.

3. Protection-sensitive entry management (in-country, at borders and at sea)	Through regular missions, cooperation with NGOs, and specific projects funded by the EU, UNHCR has increased its capacity to monitor entry management, particularly at sea borders, on small islands and in the Spanish enclaves in North Africa. The Office has also initiated new capacity-building initiatives for border and law enforcement officials in the main areas of arrival, in particular concerning the identification of individuals with asylum claims. Examples of activities include: • In Spain, Italy, Greece and Turkey, UNHCR undertakes regular monitoring missions, at main entry points of irregular arrivals, focusing both on access to territory and access to the asylum procedure. Based upon this monitoring, it also provides recommendations to the governments, as appropriate. • In Spain, UNHCR has obtained access to the internment centres on the Canary Islands by NGOs with experience in handling asylum issues. UNHCR is working closely with a number of NGOs on monitoring the procedures and provides a channel for interventions. Asylum-related information leaflets have been developed for distribution to arrivals, advising them about their rights and submission of asylum applications. • In Greece, UNHCR has engaged in new capacity-building initiatives, *inter alia* through cooperation with the state-run institute for the training of public officials, which now funds all UNHCR training activities. UNHCR is also engaged in an EQUAL project which focuses in particular on monitoring the situation at the borders. • In Cyprus, UNHCR trains Police Academy cadets twice a year. Refreshment sessions are also organized on a yearly basis for police officers in all districts. • In Turkey UNHCR is regularly engaged in training of border guards on asylum issues. • Following up to the 23 and 24 May 2006 Madrid Conference on Interception and Rescue at Sea UNHCR is discussing with the EU and national governments, as to how to best address maritime migration and what role UNHCR could play in this respect. • UNHCR notes the work being undertaken under the coordination of Frontex on training, in addition to its facilitation of other joint border initiatives involving the officials of EU Member States. The Office recognises the potential of such collaboration among Member States to develop systematic responses to border management needs, and is ready to assist in ensuring that responses are sensitive to the needs of persons seeking international protection. In this respect, UNHCR is developing recommendations as to how the entry management could be made more protection sensitive. UNHCR can furthermore offer its	

	expertise and long-standing experience in the training of border guards and other officials on issues relating to refugee protection.
4. Reception arrangements	Within the European Union, UNHCR has focused on monitoring reception arrangements, and supporting the effective management of reception centres. The Office has also provided training and capacity building for local authorities, including for purposes of information and counselling as outlined above. • UNHCR is prepared to work with states to strengthen reception and initial identification of needs at points of arrival. On the Italian island of Lampedusa, UNHCR is collaborating with the Italian Ministry of the Interior in a joint programme involving IOM and the Italian Red Cross, funded by the European Commission's ARGO programme, which is helping the authorities to improve reception conditions on the island. • An important aspect of reception arrangements involves co-operation in developing adequate reception conditions and procedures to counter sexual and gender-based violence (SGBV) as well as the provision of information material. • UNHCR recommends that such arrangements be established throughout the region and stands ready to participate therein.
5. Mechanism for profiling and referral	• UNHCR has provided support and expert advice for information and counselling activities, and in developing appropriate information materials (in particular related to the asylum option). • In Italy and Albania, UNHCR has established close co-operation with other stakeholders in order to identify and counsel those who want to seek asylum and/or have with particular needs as well as those who want to return voluntarily. Asylum-seekers are directed towards the established procedure. As described above in Italy this involves co-operation under the Italian Ministry of the Interior with IOM and the Italian Red Cross. In Albania the partners are the OSCE and IOM. • UNHCR recommends that such mechanism for profiling and referral be established throughout the region and stands ready to participate therein.
6. Differentiated processes and procedures	• There are significant discrepancies from country to country as regards the percentage of arriving migrants applying for asylum. It is not clear, however, whether this in fact reflects in fact a difference in number of arrivals with protection needs. Those arriving on the Canary Islands often do not apply for asylum, in order (it is believed) to be transferred to the Spanish mainland and released (even if with an expulsion order) after 40 days in the centres on the islands.

	• Within the European Union, the EU legal framework, especially the EC Directives on minimum standards for the asylum procedure (Asylum Procedures Directive[2]) and the material criteria for the recognition of refugees and beneficiaries of subsidiary protection (Qualification Directive[3]), provide the minimum standards for the national asylum systems. The EU instruments are to be transposed into national legislation by October 2006 for the Qualification Directive and the Asylum Procedure Directive by December 2007. UNHCR has expressed its concerns, especially with regard to the Asylum Procedure Directive.[4] UNHCR suggests to use the transposition process to go beyond the minimum standards of the Directives the quality of the existing asylum systems. UNHCR furthermore recommends to use the evaluation of the first phase instruments to examine current shortcomings and to work towards a common European asylum system in line with international standards and best practice. UNHCR stands ready to actively contribute to these processes, but its ability to do so is severely restricted by its very limited resources. UNHCR is appealing to the EU and to states to provide sufficient funding for UNHCR's activities in Europe. • The Office is furthermore developing proposals as to how to improve the efficiency of the asylum procedure without compromising the fairness of the procedure, as highlighted by UNHCR on a number of occasions.
7. Solutions for refugees	• <u>Voluntary repatriation</u> UNHCR in Europe currently is part of tripartite agreements between certain EU member states and Afghanistan. UNHCR promotes the establishment of such frameworks preferably on a trilateral basis between the country of asylum, the country of origin and UNHCR to facilitate voluntary repatriation arrangements.

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[2]   Available at http://www.unhcr.org/home/RSDLEGAL/4394203c4.pdf.
[3]   Available at http://www.unhcr.org/home/RSDLEGAL/4157e75e4.pdf.
[4]   All comments given by UNHCR in relation to EU proposals are available on the UNHCR website at http://www.unhcr.org/cgi-bin/texis/vtx/protect?id=43672f0a2. See, in particular, *UNHCR Provisional Comments on the Proposal for a Council Directive on Minimum Standards on Procedures in Member States for Granting and Withdrawing Refugee Status (Council Document 14203/04, Asile 64, of 9 November 2004)*, 10 February 2005, available at http://www.unhcr.org/home/RSDLEGAL/42492b302.pdf.

	• <u>Local integration and burden sharing</u> In the European context, national governments are responsible for the integration of those permitted to remain on their territories. Integration has increasingly become a prominent political issue given negative public opinion and a number of reports document the very limited success in this respect in a significant number of European Union Member States. UNHCR is concerned about the strain on a number of Member States at the EU's external borders and has promoted the development of burden sharing arrangements between Member States. Given the particularly difficult situation for the small island state of Malta, UNHCR has been associated with a limited number of departures for settlement in other countries. UNHCR has also sought to highlight the particular burdens faced by Malta and Cyprus. • <u>Resettlement</u> UNHCR supports the establishment of a European resettlement programme. This could form the basis for the increased strategic use of resettlement and support of the development of asylum procedures in regions of transit and origin.
8. Addressing secondary movement	• With the Dublin II Regulation, the EU has established a system to address secondary movements within the EU. UNHCR has identified a number of shortcomings of the current system, *inter alia* as regards adequate burden sharing mechanism, and has made recommendations as to how they could be addressed.[5] • Achieving a satisfactory burden sharing with countries outside the EU continues to remain another major challenge. UNHCR, has emphasized that return to countries of first asylum should only be envisaged where there are effective protection mechanisms in place combined with access to adequate procedures, in order to avoid a risk of direct or indirect *refoulement*. • UNHCR supports the EU and European countries in their endeavours to maintain an asylum space in Europe which corresponds to the region's economic potential. On the other hand, UNHCR is seeking the support of the EU to enlarge the internationally available asylum space by establishing asylum capacities in other regions where effective protection is not available yet. Pursuant to its mandate, UNHCR is working closely with states in order to build adequate capacity to provide international protection to

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[5] UNHCR, *The Dublin Regulation: A UNHCR Discussion Paper*, April 2006, available at http://www.unhcr.org/home/RSDLEGAL/4445fe344.pdf.

	those in need. In this regard, both financial and political support from the European Union and its member states is indispensable. Such support is not only needed for the development of adequate asylum systems, but also to ensure that transit countries are not left to shoulder a disproportionate burden linked to solutions for transit movements and return to areas of origin. The assessment of gaps in protection and asylum systems, and how to address them, could be done through use of UNHCR's Strengthening Protection Capacity Project (SPCP) in order to contribute to the availability of appropriate national protection systems in line with international law and standards.
9. Return arrangements and alternative migration options for non-refugees	UNHCR could play, on a good offices basis, a supportive role in assisting states to resolve the difficult problem of return of migrants and those not found to be in need of international protection based on a substantial, fair and effective procedure. In view of the experience gained from existing or earlier programmes, this may include the following activities: (i) To undertake the systematic dissemination of information on developments in the country of origin as they affect the process of return. E.g. meetings within a tripartite arrangement provide a useful forum for such information exchange. (ii) To promote voluntary return through collaborative counseling measures. UNHCR has e.g. in the context of repatriation to the West Balkans and Afghanistan had staff assigned in certain EU countries to provide such counselling. In other situations UNHCR works closely with a number of partners and in particular experienced NGOs. (iii) To facilitate dialogue and negotiations between countries of transit/destination and origin. UNHCR earlier assisted the governments of Sri Lanka and Switzerland in the establishment of a bilateral agreement on return. (iv) To identify possibilities for initial post-return re-integration assistance in the context of an ongoing UNHCR voluntary repatriation programme for refugees; and (v) To engage in "passive monitoring" of the situation of returnees once in their country of origin based on agreed arrangements with the sending country and receiving country of origin. As part of the UNHCR association with the return agreement between Switzerland and Sri Lanka, UNHCR carried out "passive" monitoring of the situation of returnees whenever issues were brought to the Office's attention.

10. Information strategy in countries of origin, transit and arrival	There is considerable confusion in the European media about terms such as "refugees", "asylum-seekers", irregular (or "illegal") migrants, and "economic migrants". Moreover, asylum-seekers and refugees are often cited in close association with crime and terrorist acts. A Europe-wide campaign to promote understanding and tolerance could have important impact in changing perceptions, but identifying the required resources will be a major challenge. • UNHCR has a number of public information activities across Europe to provide media with relevant and accurate information on the particular situation of refugees and UNHCR's operations and efforts to assist and protect them. • UNHCR together with other partners should explore further possibilities to sensitize the general public to the plight of refugees, including through human interest stories, in order to promote tolerance, and combat racism and xenophobia. • A third component would involve cooperation with IOM and other partners to undertake mass information campaigns in countries of origin, transit and destination, in order to discourage irregular migration, warn of the dangers of smuggling and trafficking, and focus on legal migration options.

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