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# PROTECTION-SENSITIVE ENTRY SYSTEMS



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# INTRODUCTION

Within the limits of international law, States have the sovereign right to choose whom to admit, exclude and expel from their territory. They have a legitimate interest in controlling unauthorized entry to their territory and in combating international crime, including the smuggling and trafficking of persons. In this Chapter, the term “entry systems” is used to describe the procedures and practices used by States to regulate access of persons to their territories.

This term has been chosen because it has a broader meaning than the commonly used term “border control”. It captures the fact that migration policies and strategies regulating access to territory have undergone significant changes and now include activities that do not take place at the physical border of a country. Interception operations (i.e. measures to prevent, interrupt or stop individuals from reaching and/or entering a territory) have always been an important entry-management tool. However, they are increasingly applied further away from State borders, on the high seas and on the territory of third States. Other measures to control migration implemented outside State borders include out-posting immigration officials and delegating certain immigration control functions to private actors through the use of carrier sanctions. Some destination States also provide assistance to strengthen the border control capacities of transit countries in an effort to decrease the number of irregular departures.

Government officials who work in entry systems (“entry officials”) include border police, immigration officials (including out-posted immigration and airline liaison officers) coast guard personnel and others who have “first contact” with migrants and asylum-seekers. The term entry officials also includes legislators, policy makers, judicial officers, civil servants and administrators who establish the relevant framework of law and policies governing the entry system. Private actors, such as carriers, can also be important actors in an entry system.

Entry systems can raise protection concerns. If applied indiscriminately, such procedures can adversely affect the ability of persons with international protection needs to seek asylum and to access other relevant mechanisms to address their needs. Accordingly, the 10-Point Plan advocates the establishment of “protection-sensitive” entry systems. These are systems that take into account the protection needs of individuals seeking access to State territory and the duty of States to respect their obligations under international human rights and refugee law, including the principle of *non-refoulement*. Protection-sensitive entry systems ensure that legitimate measures to control entry are not applied arbitrarily and that they allow asylum-seekers and other groups with specific protection needs to be identified and granted access to a territory where their needs can be properly assessed and addressed.

# OPERATIONALIZING PROTECTION-SENSITIVE ENTRY SYSTEMS



## SUGGESTIONS FOR STAKEHOLDERS

- Communicate protection obligations to entry officials, including by advocating for their inclusion in relevant laws, regulations and guidelines governing the entry system.
- Provide training to entry officials to ensure awareness and implementation of relevant protection-sensitive laws and policies.
- Establish mechanisms for dialogue and cooperation between entry officials and humanitarian actors.
- Develop practical tools to assist entry officials to identify and refer asylum-seekers and other persons with specific needs to the responsible authorities.
- Include carriers and other private actors involved in entry management in protection strategies.
- Promote and participate in cross-border cooperation for the development of protection-sensitive entry systems.
- Advocate for, and participate in, independent monitoring mechanisms.
- Develop mechanisms to address irregular maritime movements in a protection-sensitive manner.



## SUPPORT UNHCR CAN PROVIDE TO PARTNERS

- Provide expert advice to States on incorporating international human rights and refugee law into domestic legal regimes governing entry systems, and on developing guidelines, codes of conduct and training material.
- Provide training activities on refugee and human rights principles, in cooperation with States and other partners.
- Make Refworld - UNHCR's leading source of information for quality decisions on refugee status - accessible to entry officials.
- Assist in the development of a protection hotline by providing funding and/or training for staff working in entry systems.
- Enhance coordination between entry officials and asylum authorities, including through the development of agreements or memoranda of understanding on cooperation and information sharing.
- Act as a referral point for persons with possible international protection needs, where necessary and appropriate.
- Develop and participate in monitoring arrangements.



Afghan asylum-seekers and refugees who have crossed from Greece into the former Yugoslav Republic of Macedonia wait to enter the Vinojug reception centre. © UNHCR / M. Henley / October 2015

## 3.1

### Communicating protection obligations to first contact entry officials

International protection obligations are generally included in national legal frameworks governing asylum and migration. However entry officials may not always be familiar with this body of law, especially those, such as border officials, who have first contact with refugees and migrants (“first contact entry officials”). Incorporating protection obligations into specific regulations governing entry systems can be a first step towards ensuring that first contact entry officials, who are not refugee or human rights experts, are aware of such obligations and how they apply to their work. For example, entry system regulations could include a list of basic refugee protection principles, and could specify that there are exemptions to entry requirements (including travel documents and visas) for asylum-seekers, and clarify that asylum-seekers are not to be punished for illegal entry.

Operational guidelines can assist in translating legal responsibilities into practice. Such guidelines may define the roles and responsibilities of first contact entry officials and outline how to respond to persons with international protection and other specific needs, including how to screen, identify, and refer them to appropriate processes and procedures. Operational guidelines can also emphasize appropriate standards of treatment for refugees and migrants in an irregular situation consistent with international human rights law.



## Europe: “Access to the asylum procedure: Practical tools for first contact entry officials”

### A Background and rationale

As first points of contact for third-country nationals reaching the EU, first contact entry officials play a crucial role in guaranteeing effective access to international protection. The European Asylum Support Office (EASO) facilitated the development of practical tools to support first contact entry officials in fulfilling their obligations to ensure access to the asylum procedure for those who may be in need of international protection. These tools can help to identify persons who may wish to apply for protection, and give guidance on follow-up assistance and procedural guarantees that should be provided to such persons (for example, the provision of information, registration, referral mechanisms and other procedural guarantees).

### B Actors

- EASO
- EU Member States
- European Union Agency for Fundamental Rights (FRA)
- Frontex
- UNHCR

### C Actions

- Experts from Member States, EASO, Frontex, FRA and UNHCR worked jointly to develop the practical tools for first contact entry officials. Components of the tool set include the following:
  - “Practical guide: Access to the asylum procedure”, which provides information about the core obligations of first contact entry officials, the rights of persons in need of international protection and information on the procedural guarantees and support that are provided in the first-contact context;
  - A poster on access to asylum procedures that presents the ten main messages on procedures for accessing asylum and which can be displayed, for example, at border-crossings, at airports and in detention centres, and can be used as a reference tool for first contact entry officials;
  - A pocket booklet that features the core principles and main messages of “Practical guide: Access to the asylum procedure” in a compact format suitable for operational purposes and which can be used by first contact entry officials when dealing with persons who may wish to apply for international protection; and
  - A leaflet of frequently asked questions that provides quick access to relevant information about accessing asylum procedures.

### D Review

The tools were created by experts from EU Member States, facilitated by EASO and Frontex in close cooperation with FRA and UNHCR. Valuable input was also provided by a reference group, including the European Commission, UNHCR and the European Council on Refugees and Exiles.

The tools are applicable in different border contexts, including at external land borders, at sea borders, in the transit zones of international airports, and in detention facilities.

### E Further information

The practical guide, poster, pocket book and leaflet are available at: <https://goo.gl/HcMq02>.



The Beit Bridge over the Limpopo River connecting Zimbabwe to South Africa is the busiest border crossing in South Africa. © UNHCR / J. Redden / October 2007

## 3.2

### Assisting entry officials in identifying and referring asylum-seekers and other persons with specific needs to the responsible authorities

Entry officials are often the first to come into contact with persons who may have international protection needs. They are responsible for deciding who to intercept and who to allow access to the territory. In short, they are the “gatekeepers” to the procedures through which protection claims are assessed.

Entry officials are not responsible for making substantive decisions on the merits of asylum claims and/or other needs; it is also not appropriate for them to do so as they generally lack the time, expertise and access to information that is necessary to make a proper assessment of protection claims. They are responsible for identifying and referring asylum-seekers and other persons who may have specific needs to the responsible expert authorities.

Identifying individuals within mixed groups of arrivals who may be in need of international protection is not always easy. A profiling and referral exercise (outlined further in Chapter 5) undertaken by entry officials, with or without the support of other actors, can facilitate this task. Some countries have also developed specific tools to assist entry officials in profiling and referring arrivals at entry points.



2015

## “Rescue at sea: A guide to principles and practice as applied to refugees and migrants”

In the lead-up to the High Commissioner for Refugee’s Dialogue on Protection at Sea in December 2014, UNHCR partnered with the International Chamber of Shipping and the International Maritime Organization to develop an updated version of the joint publication “Rescue at sea: A guide to principles and practice as applied to refugees and migrants”. The Guide, first published in 2006, is intended for shipmasters, ship owners, government authorities and others involved in rescue-at-sea situations involving refugees and migrants. It provides basic guidance on relevant legal provisions, on practical procedures to ensure prompt disembarkation of rescued persons and on measures to meet their specific needs—particularly in cases of refugees and asylum-seekers.

The Guide is available in Arabic, Chinese, English, French, Russian, Spanish and Turkish at: [www.refworld.org/docid/54b365554.html](http://www.refworld.org/docid/54b365554.html).



2014–PRESENT

## Europe: Identification and protection of children at risk at air borders



### A Background and rationale

Recognizing a concrete need to combine law enforcement and protection systems at the external borders, the VEGA Children initiative was established to provide guidance to border guards enhancing their ability to identify children at risk of trafficking and traffickers and to respond appropriately.

### B Actors

- European Border and Coast Guard/Frontex
- Member States of the EU and Schengen Associated Countries
- Frontex Consultative Forum on Fundamental Rights, composed of International Organizations (including UNHCR and IOM), NGOs (including Caritas and the Red Cross) and EU Agencies (including EASO and FRA).<sup>1</sup>

<sup>1</sup> The full list of forum members is available at: <http://frontex.europa.eu/partners/consultative-forum/general-information/>.

## C Actions

- In the first phase of the VEGA Children initiative, Frontex actively sought the contribution of its Consultative Forum on Fundamental Rights, including UNHCR and IOM, to identify procedural gaps and challenges concerning children at risk of trafficking at external air borders.
- A handbook on at-risk children on the move at airports was developed under consultation of partner organizations. It outlines best practices, standard procedures and guidelines for border guards. It aims to improve the identification of at-risk children on the move at airports, while ensuring respect for their rights and enhancing action taken against criminal threats to their well-being.
- The handbook was tested through the implementation of a Frontex joint operation at selected EU airports where border authorities and representatives of the Consultative Forum worked together to raise awareness and enhance national capacities for the identification and protection of children at risk of trafficking.
- Based on the success of its first Joint Operation VEGA Children, Frontex continued to implement an annual Joint Operation VEGA Children with the support of the Frontex Consultative Forum.

## D Review

The initiative has contributed to raising awareness and strengthening capacities for the identification and protection of children at risk at EU airports. It has also increased mutual understanding and established good practice in cooperation between border authorities, civil society and international organizations for the common goal of child protection.

Plans are underway for the development of specific handbooks and extension of the VEGA Children initiative to EU land and sea borders.



## E Further information

The Handbook is available at:

[http://frontex.europa.eu/assets/Publications/Operations/VEGA\\_Children\\_Handbook.pdf](http://frontex.europa.eu/assets/Publications/Operations/VEGA_Children_Handbook.pdf).

2014



## Angola: UNHCR manual on international instruments and standards for the protection of persons of concern and related national laws

UNHCR Angola developed a manual (in Portuguese) to be used as a reference document to develop training and capacity-building activities for border officials and government counterparts. The manual is divided into two parts. The first outlines the relevant international instruments and declarations. The second reviews related national instruments and pertaining laws. In addition, UNHCR Angola also developed a dedicated information brochure (also in Portuguese) on the prevention and reduction of statelessness, which outlines the rights and specific vulnerabilities of stateless persons and responds to frequently asked questions.

This manual is useful in building the knowledge base on standards for protection and applicable national laws. It can be considered as a first step towards the development of a more comprehensive manual on protection-sensitive entry (see examples below).

The manual is available at: <http://www.refworld.org/docid/580723794.html>.



2014



## Zambia: Guidelines on protection assistance for migrants in vulnerable situations

### A Background and rationale

The “Guidelines: Protection Assistance for Vulnerable Migrants in Zambia” were developed as part of a joint programme being implemented by the IOM, UNHCR and UNICEF, supporting the Government of the Republic of Zambia to build the capacity of national actors to respond to mixed migration. The Guidelines were developed in close collaboration with a technical working group, migration experts in various government ministries and departments, as well as UNHCR, UNICEF and IOM.

### B Actors

- IOM
- UNHCR
- UNICEF
- Government of the Republic of Zambia

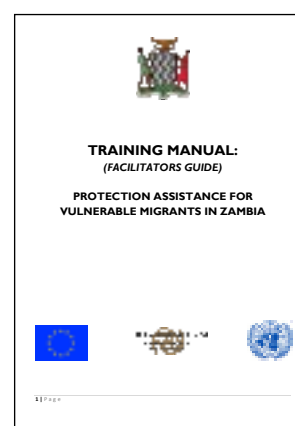
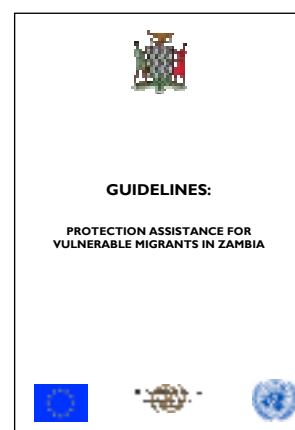
## C Actions

- The collaborative group developed “Guidelines: Protection assistance for vulnerable migrants in Zambia”. The Guidelines are divided into six core sections:
  - Background and contextual information on mixed migration and relevant international and national frameworks;
  - An outline of the guiding principles for cooperation amongst key actors and guidance on the protection and assistance needs that should be taken into consideration during service provision;
  - An overview of the core principles for consideration during service delivery;
  - Guidelines for the identification of vulnerable individuals in need of protection assistance in mixed flows;
  - Mixed migration referral mechanisms specifically designed for Zambia; and
  - Services to be provided in responding to the protection of migrants in a vulnerable situations.
- The group also developed
  - A training manual (facilitator’s guide) to facilitate capacity-building of first contact entry officials;
  - A profiling form for use by first contact entry officials; and
  - A referral form for assistance by service providers.

## D Review

The Guidelines are an excellent example of how inter-agency cooperation can facilitate the development of guidance and the concrete operational tools to put it into practice. In an effort to operationalize the guidance, the Guidelines are accompanied by a training manual that is employed to facilitate capacity-building of first contact entry officials to implement protection-sensitive processes, procedures and systems, with the aim of effectively responding to the protection needs of vulnerable individuals arriving at the Zambian border.

The Guidelines provide comprehensive and practical information on standards and procedural safeguards related to identification, referral and assistance. The scope of the Guidelines is limited to the assistance of vulnerable migrants, including victims of trafficking, unaccompanied and separated children, and stranded vulnerable migrants. The guidelines do not cover the treatment of asylum-seekers and refugees, specifying that standardized procedures and mechanisms are in place to ensure the protection of persons in need of international protection in Zambia. This is an important feature since a clear differentiation between vulnerable groups in need of assistance is at the basis of functioning identification and referral mechanisms.



## E Further information

Find “Guidelines: Protection assistance for vulnerable migrants in Zambia” at: <https://goo.gl/UeQ2i3>.

Find the training manual (facilitator’s guide) at: <https://goo.gl/e99AGx>.



Asylum-seekers and refugees, abandoned by smugglers at sea without food or water, find refuge in a temporary shelter after being rescued by Indonesian fishermen. © UNHCR / F. Ijazah / May 2015

## 3.3 Training

Regular training, both for junior level and more senior entry officials, helps to ensure broad awareness and understanding of relevant laws, regulations and guidelines and how they are to be implemented in practice. Training can be conducted in specialized sessions on international human rights and refugee law or as a part of the general training curriculum. Refresher courses also help to keep officials up to date on developments in law or policy.

In some situations, such as when there is a high turnover of staff or where a regular rotation policy is implemented, training is an ongoing process. Joint training sessions involving officials from different countries may provide an opportunity to exchange experiences and best practices. Training on protection issues is most effective when it takes into account the institutional culture of the relevant agency (e.g. law or immigration enforcement with a military or security focus). In addition to international human rights and refugee law principles, training can include psychosocial skills, such as conflict and stress management skills and culture, as well as age- and gender-sensitive interview techniques.

Training sessions offered by international agencies provide an opportunity for entry officials and the humanitarian community to engage in dialogue. They also help build trust and mutual understanding. Training entry officials is part of the regular protection work of UNHCR and other humanitarian agencies in many countries.



## Djibouti: Trainings on protection principles

### A Background and rationale

Djibouti is a major transit hub for migrants and refugees moving in mixed flows between the Horn of Africa, Yemen and the Gulf States, as well as a key destination country for asylum-seekers and refugees from Somalia, Ethiopia, Yemen and Eritrea. Following a terrorist attack in Djibouti in May 2014, the government tightened security measures in the country with movements of refugees in and out of the camps being subjected to controls. Police round-ups in the city of Djibouti also reportedly intensified to curb irregular migration. Djibouti coastguards patrolled the Obock coastline to ensure the screening of new-arrivals from Yemen. In numerous instances, large numbers of individuals without regular status were detained and then returned home without being granted the opportunity to apply for asylum. Between the outbreak of conflict in Yemen in March 2015 and 16 July 2016, an estimated 35,862 persons had arrived in Djibouti from Yemen.

In response to these challenges, UNHCR initiated training on international protection principles to enhance understanding by first contact entry officials of protection obligations and to strengthen their capacity to identify refugees and asylum-seekers and refer them to UNHCR as appropriate.

### B Actors

- UNHCR
- L'Office National d'Assistance aux Réfugiés et Sinistrés (National Assistance Office for Refugees and Disasters, Djiboutian Ministry of Interior)
- First contact entry officials: police, gendarmerie, coast guards and border officers
- Traditional chiefs

### C Actions

- 
- ➔ Training and advocacy sessions are organized on a bi-monthly basis, with 42 held since the beginning of the Yemen crisis in March 2015.
- 
- ➔ Trainings focus on international protection principles, such as access to territory and *non-refoulement*, respect for human rights and the specific protection needs of women and children.
- 
- ➔ Participants are trained in identifying persons in need of international protection. They are provided with an information brochure outlining the specific registration procedures for asylum-seekers from Somalia, Yemen and other nations along with the rights and obligations of asylum-seekers and refugees in Djibouti. The brochure also contains contact information for national authorities and international organizations that provide medical, food and other assistance to refugees and asylum-seekers.

## D Review

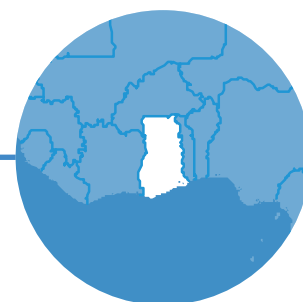
As a transit hub for mixed migratory flows, concerted training and capacity-building efforts are needed in Djibouti to enhance the awareness among national stakeholders of protection principles and ensure that individuals in vulnerable situations and refugees are treated in accordance with human rights standards and international refugee law. Training sessions target a variety of relevant stakeholders, including local authorities, law enforcement officers, traditional chiefs and members of national institutions dealing with persons of concern. The training sessions have proven vital in enhancing the protection of persons with international protection needs. Due to officials' enhanced awareness of international obligations and the rights of persons seeking asylum, persons in need of international protection are increasingly released and referred to UNHCR for assistance upon arrival to Djibouti. Even though no formalized standard operating procedures for referral mechanisms are in place, the information brochure outlining asylum and registration procedures and competent institutions has proven an effective reference document.

## E Further information

The information brochure on asylum procedures in Djibouti is available at:  
<http://www.refworld.org/docid/5804d3294.html>.

MARCH–SEPTEMBER 2015

## Ghana: Targeted trainings for first contact entry officials



### A Background and rationale

In view of crucial presidential elections in a number of neighbouring countries in 2015, UNHCR Ghana prioritised the further development of protection-sensitive border management in Ghana to enhance preparedness in the event of a large influx of refugees, asylum-seekers and migrants.

UNHCR worked with key stakeholders in Ghana to develop training sessions for first contact entry officials. Training helped establish procedural safeguards by improving the capacity of entry officials to identify people in need of international protection, as well as those with specific needs, such as unaccompanied or separated children and victims of trafficking.

### B Actors

- UNHCR
- IOM
- Ghana Refugee Board
- Ghana Immigration Service (GIS)
- National Disaster Management Organization
- Ghana Police Service
- Customs Division of the Ghana Revenue Authority

## C Actions

- Key actors, including UNHCR, the Ghana Immigration Service (GIS) and the IOM, undertook a training needs assessment.
- A concept note for the training, defining the purpose and key objectives of the trainings, was jointly prepared.
- Three targeted training sessions were conducted for 70 border officials stationed along the eastern, western and northern borders of Ghana.

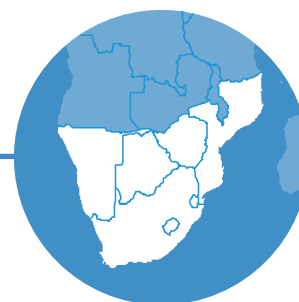
## D REVIEW

The training of immigration officials was an initiative to enhance preparedness in responding to a potential influx of refugees. The training helped immigration officials build their knowledge base of relevant asylum procedures and enhance their ability to provide information to potential asylum-seekers on the right to seek asylum. The training further improved the entry officials' understanding of their specific functions in relation to the identification and effective referral of asylum-seekers. As a result, entry officials who participated in the training are aware of the procedural safeguards and are able to refer asylum-seekers to the Ghana Refugee Board, the competent authority in Ghana to adjudicate on asylum applications. In addition, GIS requested that UNHCR provide further support to train senior immigration officials.

The contacts established in the context of this initiative at the various entry points have enabled further cooperation between UNHCR and the GIS. A recent example is the displacement of hundreds of women and children into Bole District in the Northern Region of Ghana following ethnic conflict in Bouna, Côte D'Ivoire. UNHCR and GIS collaborated closely in the context of this displacement situation. GIS monitored the situation and shared updated information on displaced persons with UNHCR.

AUGUST 2016

## Southern Africa: Training of trainers manual on mixed migration



### A Background and rationale

UNHCR and IOM, in collaboration with Save the Children, jointly developed a training of trainers manual on mixed migration. The manual is a tool for national training officers conducting training for first contact entry officials in the Southern African region to provide services that fulfil the rights and protection needs of vulnerable migrants, refugees and asylum-seekers in situations of mixed migration

The manual aims to build the capacity of first contact entry officials to sensitively interview, identify and refer persons in vulnerable situations to appropriate service providers for assistance and protection.



## B Actors

- UNHCR
- IOM
- Save the Children

## C Actions

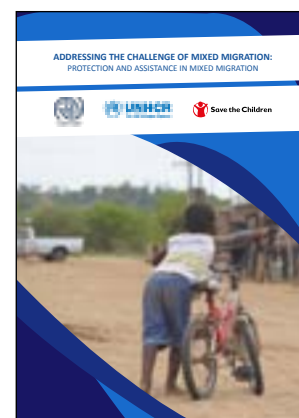
- IOM, UNHCR and Save the Children jointly developed a training of trainers manual in consultation with government counterparts. The manual targets national trainers in the Southern African region. It aims to build their capacity and enable them to conduct training on the protection and provision of assistance to vulnerable individuals in mixed migratory flows. The manual is divided into seven sections and provides:
  - Information on the purposes of the manual and the need to adapt the manual to national realities;
  - Training methodology and the planning of workshops and related activities;
  - Thematic content on mixed migration, human rights, the rights of persons in mixed migratory flows, and groups that are in need of international protection such as, refugees, asylum-seekers, stateless persons, unaccompanied and separated children and victims of trafficking;
  - Tools for identifying and referring vulnerable groups, with simulations; and
  - Elaboration of the components of referral systems.

## D Review

The manual was developed in collaboration with the regional offices of UNHCR, IOM and Save the Children and in consultation with government counterparts. This collaborative approach between agencies and government ensures that the protection responses for individuals in vulnerable situations moving in mixed migration flows are well integrated, and that specific training needs are well reflected. The protection of refugees, asylum-seekers, victims of trafficking, unaccompanied and separated children is mainstreamed within the national curriculum for new staff. The capacity-building approach helps foster government ownership of training,

## E Further information

The training manual is online: <http://www.refworld.org/docid/5804d4204.html>.





Syrian refugees in line with their passports to enter Lebanon through immigration at the official border crossing in Masnaa, Lebanon. © UNHCR / L. Addario / March 2014

## 3.4

### Establishing dialogue and cooperation between entry officials and humanitarian actors

The following examples demonstrate the ways in which entry officials and humanitarian actors can work together to identify and address shortcomings in the mechanisms used to identify persons in need of international protection. In some countries, entry officials and humanitarian actors have institutionalized their cooperation through the establishment of formal dialogues, working/coordination groups, or specific consultation processes. These arrangements often include training and monitoring components.



## Workshop on Protection at Sea: Promoting Cooperation and Identification of Good Practices

### A Background and rationale

As a follow up to the Sana'a Declaration adopted by the Regional Conference on Asylum and Migration 11–13 November 2013, the Yemen National Committee for Refugee Affairs, Ministry of Foreign Affairs, Government of Yemen, with the support of UNHCR and IOM, organized the workshop Protection at Sea: Promoting Cooperation and Identification of Good Practices in Sana'a. Participants included senior government officials and technical experts from relevant departments and agencies for maritime affairs, immigration, law enforcement, national security, asylum and refugee issues, human rights, and social services, as well as representatives from non-governmental organizations and civil society. Establishing a platform for dialogue, networking and exchange of good practices and procedures between relevant actors, the workshop sought to contribute to enhanced protection systems for asylum-seekers, refugees and irregular migrants.

### B Actors

- UNHCR
- IOM
- ICRC
- NGOs: Danish Refugee Councils, INTERSOS, Yemen Red Crescent and Society for Humanitarian Solidarity
- The Yemen National Committee for Refugee Affairs in the Ministry of Foreign Affairs
- Policy, security, immigration and regional Government officials, and the Yemen Coast Guard

### C Actions

- 
- ➔ UNHCR, IOM, the Yemen Coast Guard, INTERSOS, ICRC and the Danish Refugee Council delivered presentations that clarified the roles and responsibilities of each actor and focused on a wide array of themes in line with the 10-Point Plan including the identification of persons with international protection or specific needs arriving in mixed migration flows; the legal framework on refugee protection and the definition of “refugee”; differentiated processes (procedures to protect trafficked persons, procedures for family tracing); treatment of persons rescued or intercepted in the sea; and return of persons not in need of international protection.
- 
- ➔ Intermittent working group sessions with case studies allowed actors to exchange good practices, identify gaps and enhance coordination mechanisms.
- 
- ➔ Concrete recommendations targeting the Government of Yemen, governments in the region and international organizations were developed. Thematically, these recommendations identified the need for concerted action in the area of protection and humanitarian assistance, capacity building, strategic and donor support, coordination and cooperation.

## D Review

The workshop provided a useful platform to raise awareness on refugee protection and asylum, trafficking, and the roles and responsibilities of actors in responding to mixed flows. It also served to create linkages between different government entities and humanitarian actors. Several gaps were identified in the context of the workshop. Notable was the lack of a common forum for governorate authorities and security officials to discuss issues of concern. In response, a continuing dialogue and cooperative relationship was established with the Yemen Coast Guard, which started to regularly participate in the Mixed Migration Working Group in Aden. In addition, the workshop facilitated dialogue between UNHCR, IOM and the Danish Refugee Council in more remote coastal governorates as focal points at each office were identified during the workshop. This enhanced information exchange between the agencies.

Considerable advancements were made in putting recommendations into practice. In particular, a training on asylum, migration and detention in Taiz governorate was conducted, coordination meetings at the Bab-al-Mandab Transit Centre were held and regular bilateral meetings on specific issues were held jointly with UNHCR and IOM, typically through the Mixed Migration Working Group. Another positive outcome of the workshop was the improvement of the referral system. This led to security officials and coast guard authorities regularly referring boat arrivals and interceptions directly to UNHCR and partners, especially along the Red Sea coast. Access to individuals in detention for screening and referrals was also enhanced.

Following the outbreak of conflict in 2015, reception arrangements along the Red Sea and at the Bab-al-Mandab Transit Centre were impacted. Many trained government and security officials were relieved of their positions and the influx of new arrivals was largely viewed through a security lens, with the resultant emergence of several protection risks. However, linkages with the authorities in key governorates have remained, especially with the Yemen Coast Guard and immigration authorities in Aden. The working group in Aden was reinstated soon after the cessation of hostilities in the south and dialogue with authorities was re-established, with the potential for future capacity building and awareness raising still on the agenda.

## E Further information

The workshop report is available at:

<http://www.refworld.org/pdfid/5804d47c4.pdf>.





## EU: Frontex-UNHCR cooperation

A July 2008 Exchange of Letters sets the framework for cooperation between UNHCR and Frontex, the EU Border Agency. The main objective of this collaboration is to contribute to an efficient EU border management system that is fully compliant with international and EU protection obligations. This is pursued through a range of activities including UNHCR's contribution to the development of Frontex training tools for EU border and entry officials; the identification and promotion of good practice standards in border management; the briefing of officers on international protection before they are deployed to Frontex joint operations; and reporting of potential violations of fundamental rights in areas where Frontex is operational.

UNHCR and Frontex have also increased their cooperation in the area of risk analysis thereby promoting a protection-sensitive approach to assessing mixed-migration movements and EU response capacities. Cooperation is also pursued through partnership in capacity building projects in third countries, notably an EU-funded Instrument for Pre-accession Assistance project on the establishment of a protection-sensitive border management in the Western Balkans and Turkey. UNHCR is also member of the Frontex Consultative Forum on Fundamental Rights, established in 2012 as an independent advisory body to the Agency and its Management Board on the promotion of fundamental rights in Frontex activities.

UNHCR served as the Chair of this Forum from 2015 to 2016. Within the framework of the activities of the Consultative Forum, UNHCR contributes to the development of codes of conduct and guidance for border officials, makes direct recommendations on the protection of persons in need in the context of Frontex operations and has deployed experts to Frontex Joint Operation VEGA Children, aimed at the identification and referral of children at risk of trafficking at EU airports (see related example in section 3.2).



Members of the Hellenic Rescue Team at sea close to Mytiline, during a training session. In 2015, the volunteers worked 24 hours a day, responding to endless calls to undertake 1,035 rescue operations, saving 2,500 lives, and assisting more than 7,000 people to safety. © UNHCR / C. Irby / October 2016

## 3.5

### Including carriers and other private actors in the protection strategy

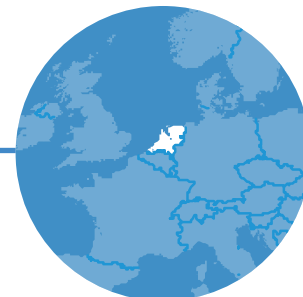
Many States impose sanctions on carriers for the transportation of non-nationals without proper travel documentation to their territory. As a result, carriers may be required to deny embarkation to travelers in an irregular situation, regardless of any potential protection needs. A protection-sensitive entry system could ensure that the legislation imposing sanctions on carriers contains exemptions for transporting an improperly documented person if that person applies for asylum at the point of entry. States may also allow carriers to refer asylum-seekers without proper travel documents to local authorities in the country of departure if the country is a State Party to the 1951 Convention and has a functioning asylum system in place; or to officials from the destination State stationed in the country of departure, such as airline liaison officers, out-posted immigration or asylum officials, the local embassy or consulate, or to relevant international organizations or NGOs.

Carriers and other private actors involved in entry management could be included more broadly in the protection strategies developed by States, as outlined below.

- States can provide carriers with guidelines on practical measures for handling unauthorized and undocumented passengers, including contact points with asylum or immigration authorities in the prospective destination State or, where appropriate, in the country of departure.
- States may encourage carriers to adopt an internal code of conduct for managing persons seeking international protection among unauthorized or undocumented passengers.
- Carriers can be included in protection training sessions for State entry officials, or specific protection training events can be arranged.
- The framework for monitoring protection safeguards in entry systems can extend to carriers.

2000

## Netherlands: The Aliens Circular



The Aliens Circular of the Netherlands of 2000 outlines how carriers should handle travel requests by persons who are seeking asylum.

A2. 7.1.5 states: “When a carrier, during identity control, is confronted with an individual who is not properly documented, he/she is under no obligation to transport this individual. In case the alien declares that his/her life is in direct danger in the country from where (s)he wishes to depart, the carrier may refer the alien to the Dutch representation in order to apply for asylum there. When the carrier in such circumstances considers transporting the alien, the carrier must contact the Immigration and Naturalisation Service (Immigratie en Naturalisatie Dienst, IND). The Director of the IND will decide if the alien concerned can be transported to the Netherlands, despite the lack of appropriate travel documents. When a carrier has transported an alien without documentation or proper documentation to Dutch territory, but has done so with prior authorization of the responsible official, there is no obligation to return the alien, nor will the report be deposited of the suspected offence of Article 4 of the Alien Law. The carrier must submit properly in writing the facts and circumstances as relayed by the alien.”

Available at: <http://www.unhcr.org/refworld/docid/47fdfaea0.html>.





Hundreds of Rohingya refugees, crammed aboard a wooden fishing boat, desperate for food and water, drift aimlessly in the Andaman Sea after being refused entry to Malaysia. © Christophe Archambault

## 3.6

### Ensuring cross-border cooperation on protection, including in the context of rescue at sea operations

Cross-border cooperation on establishing protection-sensitive entry systems can help ensure consistent and coherent approaches between States, including in various regions. Cross-border cooperation is particularly important in the context of distress and rescue at sea operations involving irregular maritime movements, in order to ensure that rescued persons are disembarked at an appropriate place of safety, processed, and provided access to asylum procedures and other mechanisms to meet special needs.





## The Bay of Bengal and Andaman Sea Proposal for Action

### A Background and rationale

In the first half of 2015, an estimated 31,000 people travelled by boat in irregular and dangerous ways in the Bay of Bengal and Andaman Sea. They were part of a complex, mixed migratory movement composed of refugees, stateless people and migrants. In May 2015, at least 5,000 refugees and migrants from Myanmar and Bangladesh found themselves stranded at sea when the smugglers who had promised to take them to Malaysia abandoned them in the Bay of Bengal and Andaman Sea.

In response to this alarming rise in the mixed movement of persons in the Indian Ocean, the Government of Thailand organized the Special Meeting on Irregular Migration in the Indian Ocean on 29 May 2015 in Bangkok. Recognizing the need for coordinated action among international agencies and government partners, UNHCR, IOM and UNODC collaborated in the preparation of this meeting, developing the Proposal for Action that provides guidance and technical advice to governments in the region, enabling a protection-sensitive response to the rise in mixed migratory movement.

### B Actors

- UNHCR
- IOM
- UNODC

### C Actions

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- UNHCR, IOM and UNODC developed a joint Proposal for Action outlining steps for governments in the region to take in response to the rise in mixed migratory movements in the Bay of Bengal and the Andaman Sea.
- 
- The Bay of Bengal and Andaman Sea Proposal for Action covers the sea journey and disembarkation of refugees, stateless people and migrants in the region; their reception and treatment upon arrival; regional responsibility-sharing; and the root causes of the mixed migratory movement. It proposes ten concrete steps that governments in the region need to take to ensure the protection of refugees and migrants during their sea journey and disembarkation, including measures to strengthen search and rescue operations and to establish effective and predictable disembarkation in places of safety.

## D Review

The Proposal for Action was presented at the 29 May 2015 Bangkok Special Meeting on Irregular Migration in the Indian Ocean, organized by the Government of Thailand and attended by high-level representatives from key affected countries in the region. The Proposal for Action was used as a basis to develop a set of recommendations that were endorsed during the meeting by the representatives of the five most affected countries, Bangladesh, Indonesia, Malaysia, Myanmar and Thailand.

The Bali Declaration on People Smuggling, Trafficking in Persons and Related Transnational Crime echoed the proposals and recommendations put forward at the Bangkok Special Meeting, and together the Bangkok and Bali instruments provide the foundation for the coordinated regional action required to manage and protect refugees and migrants at sea.

At a follow-up meeting on 4 December 2015, UNHCR, IOM and UNODC jointly presented a plan for implementing the immediate response recommendations. This subsequent Proposal for Action has been presented at various forums to a range of stakeholders, including to public and private sector search and rescue practitioners at the International Search and Rescue Conference in Kuala Lumpur from 19–21 July 2016 and naval and coast guard officials at the Maritime Security and Migrant Protection in the Bay of Bengal and Andaman Sea workshop in Jakarta from 26–27 July 2016.

## E Further information

The UNHCR-IOM-UNODC Proposal for Action is available at: <http://www.unhcr.org/55682d3b6.html>.

The outcomes from the Bangkok Special Meeting on Irregular Migration in the Indian Ocean are available at: <http://goo.gl/x3zaxK>.

Volker Türk's statement at the 29 May 2015 Bangkok Special Meeting on Irregular Migration in the Indian Ocean: <http://goo.gl/O5NXHo>.

Bali Declaration on People Smuggling, Trafficking in Persons and Related Transnational Crime adopted at the Sixth Ministerial Meeting of the Bali process available at: <http://goo.gl/IQaAv5>.



# 3.7

## Setting up independent monitoring mechanisms

Establishing independent monitoring mechanisms for entry systems has proven to be a useful way for States to ensure that entry systems comply with protection obligations. Monitoring can also help identify problems, gaps, and training needs on protection issues. It provides a platform for dialogue among entry officials, asylum authorities, UNHCR and its NGO partners, and other stakeholders.

Establishing a system of record-keeping for new arrivals can facilitate monitoring and encourage entry officials to respect and uphold their protection-related responsibilities. Relevant information includes basic biographical details (i.e. name, date and place of birth, nationality), as well as grounds for admission or refusal of entry, the names of relevant entry officials, referral procedures and any complaints.

Depending on the circumstances, the monitoring body could be composed of government authorities, international actors (including UNHCR and NGOs), or any combination of these actors. An agreement outlining respective responsibilities between entry authorities and the monitoring body could be concluded, including on information and data sharing, as well as access to entry facilities.

Monitoring could include a periodic review of documentation and records on protection issues provided by entry officials and/or direct monitoring of the day-to-day implementation of protection safeguards. Such monitoring activities may include visiting border entry points, accompanying border/coast guard patrols, and reviewing files and other material directly on site. Monitoring missions could be coupled with training exercises and sessions on protection issues. Monitoring processes are often concluded with a confidential or public report detailing the findings and recommendations of the monitoring mission.

Border monitoring is also a component of all of the cross-border cooperation arrangements outlined above, in this chapter (3.6 “Ensuring cross-border cooperation on protection”).

### 2015–PRESENT

## Latin America: Border Monitoring and Protection Network in Chile, Peru and the Plurinational State of Bolivia



### A Background and rationale

Chile, Peru and the Plurinational State of Bolivia have become destinations of large mixed migration flows. Refugees and migrants from Colombia, Haiti and other nations regularly circulate across the borders of these three countries. Restrictive migration policies have led to serious obstacles for individuals in need of international protection in accessing territory and refugee status determination procedures.

Civil society organizations working in border areas have reported cases of arbitrary rejection at the borders. Individuals requesting asylum were reportedly rejected without due process, and there have been reports of discriminatory attitudes on the basis of the applicant’s ethnicity (particularly against Afro-Colombians).

In addition, migrants and refugees stranded at borders were exposed to serious protection risks, including smuggling networks, abuse and corruption. Cases of sexual extortion and sexual abuse of women on the move, mainly Colombians, at the hands of smuggling networks and corrupt border officers, were reported.

In an effort to respond to these challenges and strengthen protection-sensitive entry systems at the borders of Chile, Peru and the Plurinational State of Bolivia, UNHCR provided support to civil society organizations through the establishment of the Border Protection Network.

## **B** Actors

- UNHCR
- IOM
- Civil society organizations and religious organization from Chile, Peru and the Plurinational State of Bolivia that work directly to assist migrants, refugees and asylum-seekers at borders.
- The National Refugee Commissions of the three countries
- The national human rights institutions of the three countries (Defensorías del Pueblo de Bolivia y Perú/ Instituto Nacional de Derechos Humanos de Chile)

## **C** Actions

### **Establishment of the Border Protection Network**

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- In 2013, civil society organizations working at the borders of Chile, Peru and the Plurinational State of Bolivia held their first regional meeting on border protection with a view to assessing the protection situation at the borders and facilitating coordination arrangements to reinforce monitoring and protection activities. Annual meetings were planned to enable information exchange on the situation at borders, incorporate new stakeholders and facilitate coordination arrangements concerning monitoring, protection and assistance activities.
- The second meeting of the Border Protection Network took place in 2014 in Tacna, Peru. The national human rights institutions of the three countries were invited to participate. A series of conclusions were adopted for use as an advocacy tool with governments highlighting protection risks and abuses that asylum-seekers, refugees and migrants face at the borders.
- In 2015, the Border Protection Network held its third regional meeting in Arica, Chile with the participation of national human rights institutions and representatives of the national refugee commissions of the three countries. The third regional meeting was jointly supported by the regional offices of UNHCR and IOM. The Network reviewed and reinforced its coordination arrangements, including establishing joint monitoring missions to border areas, and adopted a new set of conclusions and recommendations to protect the rights of migrants and refugees.

### **Key activities of the Border Protection Network**

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- Reinforcing access to the territory and reducing the risk of *refoulement*. Activities include:
  - Strengthening coordination and information exchange;
  - Undertaking regular missions to borders in order to conduct monitoring and sensitization activities;
  - Gathering quantitative and qualitative information on the magnitude and profile of the population of interest at borders;

- Documenting practices and rejections at borders and monitoring access to RSD procedures, and advocating with national refugee commissions;
- Distributing information materials on asylum in the three countries targeting border authorities, the general public, asylum-seekers and refugees;
- Providing people on the move with support services such as temporary shelter, food and basic health care; and
- Participating in advocacy activities with immigration and security authorities to prevent rejection at borders and abuses against migrant and refugee populations.

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→ Developing legislation and policies. Actions include:

- Promoting the adoption of protocols and instructions aimed at border officials that contain clear instructions on how to process asylum applications at borders; and
- Reviewing pre-admissibility procedures to refugee status determination applied in some countries and promoting their amendment in line with the right to asylum and international standards.

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→ Reducing and preventing the risk of sex and gender-based violence (SGBV). Actions include:

- Promoting the inclusion of protection-sensitive safeguards in the refugee legislation of Chile and Peru;
- Encouraging the involvement of government agencies in monitoring human rights abuses and protection concerns related to SGBV in border areas;
- Mapping and strengthening border services available to women victims of SGBV; and
- Developing and disseminating information on the risks of SGBV and services available to women in border areas.

## **D** Review

The Border Protection Network played a key role in the systematization and dissemination of information on the protection risks faced by migrants and refugees at borders. The advocacy of civil society organizations raised awareness in central immigration agencies and national human rights institutions about the abuses faced by migrants and refugees at borders at the hands of first contact entry officials and individuals involved in the smuggling networks. As a result, these agencies conducted regular missions to assess and monitor border areas. National refugee commissions also participated in monitoring visits and developed training for border officials. Restrictive practices concerning access to the territory and refugee status determination procedures were eased and the number of people refused entry to Chile or to asylum systems significantly decreased.

## **E** Further information

UNHCR, “Sociedad Civil debate acciones para fortalecer la protección de refugiados en fronteras de Bolivia, Chile y Peru”, 14 August 2015, available at: <http://goo.gl/ypwyxL>.

