

## 10-Point Plan Expert Roundtable N° 3

### “The return of non-refugees and alternative migration options”

Geneva, Switzerland  
30 November – 1 December 2009

### Summary Report

The Expert Roundtable entitled “The return of non-refugees and alternative migration options”, which was jointly organized by the United Nations High Commissioner for Refugees (UNHCR), the International Organization for Migration (IOM) and the International Labour Office (ILO) in Geneva 30 November and 01 December 2009, reviewed the policies and practices pertaining to the identification and implementation of solutions for non-refugees. The term “non-refugees” includes persons found not to be in need of international (refugee) protection and without compelling humanitarian reasons to stay (unsuccessful asylum-seekers) as well as persons who had effective access to the asylum procedure but never sought asylum and are in irregular situations. In addition, the 35 experts who participated in the meeting, representing governments, inter-governmental organizations (IGOs) and non-governmental organizations (NGOs), also shared interesting initiatives and tools from different regions to address the situations of non-refugees.<sup>1</sup>

From the outset, participants underlined the importance of a **comprehensive strategy** and recommended that the identification of solutions for non-refugees form part of a holistic migration policy framework taking into account the interests of the different States involved as well as those of the individuals concerned. UNHCR’s 10-Point Plan of Action on Refugee Protection and Mixed Migration was proposed as a tool for the development of such a comprehensive framework. Experts also emphasized that the resolution of irregular situations requires a **differentiated approach** which includes, but is not limited to, the return to the country of origin. As suggested during the meeting, return could be complemented by opportunities for regular migration, regularization programmes and possibilities for certain individuals to legalize their stay. Solutions should be identified on the basis of the **profile of the individual and should take into account specific needs**. This, however, does not necessarily mean that the individual concerned would be able to achieve the desired outcome of his or her plans.

Participants also discussed ways in which the **three co-organizing agencies** could best assist States in developing solution strategies for non-refugees and how they could apply their different mandates and expertise to best **complement** each other in this respect.

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<sup>1</sup> These practices and tools are marked in yellow in the text.

The Roundtable was the third in a series of four thematic discussions on UNHCR's 10-Point Plan of Action on Refugee Protection and Mixed Migration funded by the European Commission.

## **I. Creating opportunities for regular migration**

Participants recapitulated the push and pull factors of irregular migration. Globally, some 10-20 per cent of international migrant workers are in irregular situations.<sup>2</sup> A major compelling factor for irregular migration is the absence of access to livelihood opportunities and the inability for new jobs to be created where people live. However, irregular migration is also a response to genuine labour market needs in destination countries. Participants referred to a recently issued report of the Organisation for Economic Co-operation and Development (OECD), which illustrates the finding that undocumented migrants generally take on jobs for which there are insufficient candidates among nationals and legal residents.<sup>3</sup>

### **1. Opening legal migration channels**

Experts drew attention to the discrepancy between the limited number of legal migration channels and the often much larger pressures and demands for labour mobility. Irregular migration could be substantially reduced if regular migration options relied on actual labour market assessments and needs. Legal migration programmes could also contribute to economic recovery following the global economic crisis. The existence of legal migration possibilities avoids exploitative work conditions and reduces incentives for human smuggling and trafficking. It provides labour migrants with access to social security as well as other services and facilities that ensure respect for their human rights.

Participants referred to regional integration frameworks such as the Economic Community of West African States (ECOWAS), which grants citizens of ECOWAS Member States the right to enter, reside and establish themselves in the territory of a Member State (as seen in the example below). Similar frameworks exist in other regions (European Union, Southern Common Market (MERCOSUR) in South America). Experts, however, also recommended opening legal migration channels across regions.

Legal migration channels can also have a positive impact on the asylum system. For example, they can decrease the number of asylum applications submitted by migrants who lack international protection needs and have no other possibility to legalize their stay. Furthermore, they may enable people who are forced to flee to enter their country of asylum legally.

Practical Examples and tools mentioned during the Roundtable include the following:

#### **The ILO Multilateral Framework on Labour Migration**

This policy guidance framework was mentioned as a practical and user-friendly tool for governments, for employer and worker organizations, and for all of those involved in the development, strengthening, implementation and evaluation of national, regional and

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<sup>2</sup> A database of estimated irregular migration in Europe is provided, for example, by the Hamburg Institute of International Economics at: [http://irregular-migration.hwwi.net/Background\\_informati.6109.0.html](http://irregular-migration.hwwi.net/Background_informati.6109.0.html).

<sup>3</sup> OECD, *Management of Low-Skilled Labour Migration*, International Migration Outlook, 2008, available at: <http://www.oecd.org/dataoecd/1/49/43999033.pdf>.



international labour migration policies and practices. It contains non-binding principles, guidelines and a series of best practices to implement a rights-based approach to labour migration. The Multilateral Framework on Labour Migration is the first and only comprehensive policy framework of its kind.

## Freedom of Movement Rights under the ECOWAS Protocols

The 1975 ECOWAS Treaty and the 1979 Protocol relating to the free movement of persons, residence and establishment and its four supplementary protocols confer upon citizens of ECOWAS Member States the right to enter, reside and establish themselves in the territory of any Member State, provided they possess valid travel documents and international health certificates. Refugees originating from ECOWAS Member States enjoy equal treatment. Since 2007, and in application of the above-mentioned protocols, nationals of ECOWAS member states, including unsuccessful asylum-seekers, do not need a residence permit and are entitled to be issued a work permit.

In practice, however, the lack of proper documentation and the absence of national implementing legislation and mechanisms are major hurdles for the realization of these rights. The majority of migrants in countries in the region work in the informal sector of the economy and have no possibility to regularize their stay.<sup>4</sup>

## 2. Regularization

Individuals in an irregular situation who meet certain requirements may legalize their status even if found not to qualify for international protection. In this regard, two different approaches were discussed at the meeting: the implementation of regularization programmes targeting larger groups of migrants or legalization on the basis of the individual's specific profile.

### 2.1 Large-scale regularization programmes

The largest regularization programmes<sup>5</sup> have been implemented in the United States of America and in a number of countries in Europe.<sup>6</sup> Countries in Latin America which implemented similar programmes include Argentina (as examined below), Brazil, Ecuador, Mexico and Venezuela.<sup>7</sup> The main objectives of these programmes are to reduce the size of the informal sector of the economy and to increase the tax and social security contributions of migrant workers. The programmes also help to fill jobs for which a sufficient number of qualified, native applicants are not available, and they provide the government with an insight

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<sup>4</sup> For further information, see UNHCR's 10-Point Plan in Action on Refugee Protection and Mixed Migration Compilation of practical examples, Provisional Release, July 2009 (hereafter referred to as the *Compilation*) Chapter 7 (page 133) available at: <http://www.unhcr.org/4aae18649.html>.

<sup>5</sup> An overview is provided in the IOM World Migration Report 2008: *Managing Labour Mobility in the Evolving Global Economy*.

<sup>6</sup> The regularization programmes carried out in the EU since the 1980s provided nearly four million undocumented migrants with temporary or permanent residence and/or work permits.

<sup>7</sup> In Mexico, the implementation of large regularization programmes between 2002-2006 saw 15,000 undocumented migrants regularized, most of whom came from countries in Central America. The "*Mission Identidad*" (Identity Mission), implemented by Venezuela between 1998 and 2006, has provided documentation to approximately 415,000 migrants who had been living in the country for many years but did not possess identity cards.



into the real size and composition of the migrant population and the opportunity to integrate them into their strategies.

For migrants who benefit from these programmes, regularization improves their social and economic situation and contributes to their integration. Once regularized, migrants can compete for higher-paid jobs and enhance their professional skills.

Participants noted that large-scale regularization programmes share similar features. They often target migrants from countries with cultural and historical connections. Eligibility requirements include the length of residence, proof of work and social welfare contributions, clean criminal records, age and nationality (for programmes limited to certain nationalities). Since regularization programmes are generally open to all persons of a specific profile, both refugees who have not been formally recognized as such or whose international protection needs were not recognized by the host country and asylum-seekers may also benefit from these programmes.

The main argument against regularization programmes is that they could inadvertently encourage an increase in irregular migration. Experts attending the meeting, however, noted that insufficient research is available on the impact of regularization programmes.<sup>8</sup> There is no evidence available to indicate that countries with regularization programmes are more affected by irregular migration than countries without such programmes. Possible pull-factors could be best addressed if regularization is embedded in a comprehensive migration policy.

Participants recommended that regularization initiatives be accompanied by an information strategy to ensure public support. Early consultations with neighbouring countries have proven useful to mitigate the concern often shared by neighbouring countries that regularization programmes could increase irregular migration or onward migration. Where possible, it would be useful to develop regional approaches to regularization.

### **Regularization Programmes, Argentina 2004-2009**

In 2004, the Argentinean authorities adopted a comprehensive approach to address irregular migration. A new national migration law was adopted and a regularization programme was subsequently launched. In its first phase (2005), it granted residence status to migrants who were not citizens of the Common Market of the South (MERCOSUR) and, in 2006, facilitated the regularization of migrants from MERCOSUR and associated countries, the latter of which accounts for 90% of all migrants in Argentina. Since the programme was launched, 800,000 migrants have regularized their status thus facilitating their social integration into Argentinean society. As a result, the number of undocumented migrants in the labour market has declined significantly and the unemployment rate has decreased to 8%.<sup>9</sup>

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<sup>8</sup> Kupiszewski, M. and Mattila, H., *Addressing the Irregular Employment of Immigrants in the European Union: Between Sanctions and Rights*, European Commission, IOM and ILO, July 2008, outlines the regularization practices in a number of European States. This is one of only a few studies and is available at: <http://www.iom.hu/PDFs/Addressing%20the%20Irregular%20Employment%20of%20Immigrants%20in%20the%20European%20Union%20Between%20Sanctions%20and%20Rights.pdf>.

<sup>9</sup> The presentation made at the Roundtable will be available with additional information at: <http://www.unhcr.org/pages/4a16aac66.html>.



## 2.2 Individualized legalization

Participants also noted the added value of exploring possibilities to legalize the status of individuals. Such possibilities could arise, for example, from the implementation of national laws supporting the principle of family unity, addressing specific needs of the local labour market or defending humanitarian reasons. One of the examples discussed in greater detail as a good practice includes German hardship commissions which enable authorities to review the individual circumstances of the applicants beyond strict legal requirements (as elaborated below).

While the number of individuals who could benefit from such legalization options is generally limited, legalization could broaden the variety of options available to non-refugees and help determine appropriate responses to individuals.

Participants also mentioned that regimes for freer movement of people in regional integration frameworks could provide options to regularize the circulation, entry and stay of persons from the region in member countries. With regard to the ECOWAS framework, however, obstacles still impede the full implementation of these rights (as outlined above).

### Hardship Commissions, Germany

The German Residence Act allows Federal States to grant a residence permit to unsuccessful asylum-seekers who, otherwise, would be obliged to leave Germany whenever the independent Hardship Commission makes such a recommendation. These Commissions are composed of representatives of regional authorities, churches, and civil society organizations. The Commissions review applications received from unsuccessful asylum-seekers who claim that special hardship prevents them from returning to their countries of origin.

Since the establishment of the Hardship Commissions in 2005, approximately 9,000 applicants have submitted a request to remain in Germany. On average, 61 per cent of these requests resulted in a positive decision and, of these, 86 per cent have been endorsed by the Ministry of Interior and followed by the issuance of residence permits. In most positive decisions, a long duration of stay, a good command of the German language, the enrolment of children in the German education system and serious health problems are all decisive factors. These Hardship Commissions enable the authorities to review the individual circumstances of the applicants beyond strict legal requirements.<sup>10</sup>

## II. Managing return

Participants extensively discussed the assisted voluntary return and reintegration of unsuccessful asylum-seekers. While, as indicated earlier, return should not be the only possible outcome for all non-refugees, participants emphasized that a consequent return policy and practice is an important element in any strategy to combat irregular migration and to reduce human smuggling and trafficking.

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<sup>10</sup> For further information, refer to Chapter 9 (page 173) of the Compilation, available at <http://www.unhcr.org/4a856b8b2.html>.

Participants agreed that voluntary return<sup>11</sup> is the option with the greatest convergence of interests for returnees, host countries and countries of origin. The decision to voluntarily return allows returnees to be better prepared and it avoids the stigma of forced return. Voluntary return is also generally more cost-effective and administratively less cumbersome for the authorities of the returning country than forced return. Countries of origin prefer voluntary return since it helps ensure that the rights of their nationals are respected. Further, it may include reintegration assistance for the returnees and the local communities.

Some participants also underlined that forced return should not be excluded as a measure of last resort, provided that it complies with relevant protection safeguards. Participants referred to the Council of Europe's Guidelines on Forced Return<sup>12</sup> and the European Union (EU) Return Directive<sup>13</sup> in this respect, emphasizing that an independent monitoring of such return can guarantee that these standards are respected in practice.

Reference was also made to the positive impact that the return of unsuccessful asylum-seekers can have on the integrity of asylum systems. In this respect, some experts referred to the Conclusion No. 96 of the UNHCR Executive Committee 2003,<sup>14</sup> which acknowledges that UNHCR may support States, upon request, with the return of persons found not to be in need of international protection provided that the involvement of the Office is not inconsistent with its humanitarian mandate. Some experts encouraged UNHCR to further its work on the operationalization of that conclusion, including through enhanced inter-agency cooperation by, for example, developing joint Standard Operating Procedures (SOPs).

### ***IOM's Assisted Voluntary Return and Reintegration Programmes (AVRRs)***

These programmes, which can only work as part of a comprehensive migration management strategy, aim at the humane and cost-effective return and reintegration of migrants wishing to return to their countries of origin voluntarily.

The principles of AVRR are as follows: (i) the voluntariness of the return through an informed decision by the returnee; (ii) the possibility for the migrant to change his/her mind at any time during the return operation; and (iii) the identification of long-term prospects for his/her reintegration in the country of origin. AVRR programmes are organized in three phases: the pre-departure outreach and counselling; the practical arrangements for return; and the post-arrival and reintegration assistance which can also include counselling and monitoring.

Assistance to individuals and their families to become self-sufficient and identification of long-term prospects in the country of origin, based on identified needs, are essential to the success of such programmes.

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<sup>11</sup> Voluntary return is the return of an individual to his/her country of origin, based on his/her free will and well-informed decision, in the absence of coercive measures. Voluntary returns can take place either spontaneously without the involvement or support of the host States or other actors or with their financial and/or logistical support (Assisted Voluntary Return).

<sup>12</sup> Council of Europe: Committee of Ministers, *Twenty Guidelines on Forced Return*, 4 May 2005, available at: <http://www.unhcr.org/refworld/docid/42ef32984.html> [accessed 14 January 2010].

<sup>13</sup> European Union, *Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals*, 16 December 2008, 2008/115/EC, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:348:0098:0107:EN:PDF> [accessed 20 January 2010].

<sup>14</sup> Available at: <http://www.unhcr.org/3f93b1ca4.html>.



Funding support is critical to ensure the sustainability of each AVRR programme. Participants also noted that returnees often find it difficult to articulate their own expectations upon return to their countries of origin, which poses additional challenges to the actors in charge of assisting with their reintegration.<sup>15</sup>

## 1. Providing counselling and preparing for return

Targeted outreach to potential returnees combined with return counselling and the provision of information on assisted voluntary return options plays a crucial role in ensuring that voluntary return is based on the free decision of the returnee and that s/he is informed and prepared for the return. Such counselling should be offered at the earliest stage and throughout the procedure: upon arrival in the host country; during immigration procedures or following the negative outcome of an asylum application; and after a return order has been issued. This requires enhanced cooperation between asylum authorities, NGOs, and those specialized on return.

Participants underlined the importance of providing potential returnees with timely and accurate information on their fundamental rights and updated information on their respective countries of origin in order to facilitate their reintegration upon return. Information should include, in particular, entitlements with regard to education, health services, training opportunities, access to the labour market, etc. Participants referred to the critical role played by international and local NGOs in disseminating information to potential returnees.

Information on the return process can be communicated through various means, including through counselling interviews, information leaflets and videos. Some participants referred to a newly developed tool, which allows people who are considering return to discuss this option via live video conference calls with compatriots who recently returned to their country of origin. This tool is being used in some of IOM's AVRR programmes, such as that implemented in the United Kingdom.

### The IRRICO Project

The IRRICO Project (Information on Return and Reintegration in Countries of Origin) of IOM aims to gather and consolidate information on countries of origin, which helps social workers and return counsellors provide migrants with reliable, up-to-date information on return and reintegration possibilities and on socio-economic conditions, including housing, health, transport, and social security.<sup>16</sup>

## 2. The return of persons with specific needs

The return of persons with specific needs, such as unaccompanied and/or separated children, victims of trafficking, and stateless persons, may raise particular challenges and thus requires particular diligence. Accompanying measures may be necessary to ensure respect for the human rights of these individuals and to ensure the sustainability of return. This is another

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<sup>15</sup> For further information, refer to Chapter 9 (page 166) of the Compilation, available at <http://www.unhcr.org/4a856b8b2.html>. Further information is also available at <http://www.iom.int/jahia/Jahia/activities/by-theme/regulating-migration/return-assistance-migrants-governments>.  
<sup>16</sup> Further information on this programme is available at: [www.iom.int/irrico](http://www.iom.int/irrico).



area requiring enhanced cooperation among stakeholders and agencies with different expertise.

Some experts mentioned the lack of knowledge among law enforcement officials and other relevant actors on the specific needs of people belonging to the groups mentioned above and suggested that more training may be necessary in this respect. In this regard, an expert from FRONTEX recommended the high-level training curriculum for border guards, which was developed jointly by UNHCR, IOM and the European Union Fundamental Rights Agency.

## 2.1 The return of children

Participants reviewed the key principles of the Convention on the Rights of the Child (CRC),<sup>17</sup> noting their importance to the return process. The following articles were highlighted as particularly relevant in this regard: the principle of non-discrimination (Article 2); the primacy of the best interests of the child (Article 3); the right to life, survival and development (Article 6); the right for children to participate and have their views taken into account (Article 12); and protection from abuse, exploitation and trafficking (Articles 34, 35 and 36).

Participants also referred to the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children<sup>18</sup> which contains specific provisions for child victims of trafficking. On a regional level, the Council of Europe Convention on Action against Trafficking in Human Beings<sup>19</sup> and the Regional Guidelines for the Repatriation of Child Victims of Human Trafficking in the Americas<sup>20</sup> were also mentioned.

Restoring family links is crucial for all returnees in general, but it is of particular importance for children. Child experts voiced concerns, however, about the fact that return to the family is too often deemed the best solution for children. Especially in cases where children have been trafficked by their families or have left their country of origin at a young age, return may not necessarily respect the best interest of the child. The family may also perceive the return of the child as a failure of the plans which, in turn, could pose negative consequences for the child.

Mechanisms which help to ensure that these principles are upheld include the appointment of a guardian in the host country, consultations with a guardian or a legal representative in the country of return, and/or the designation of a specific case manager by the migration authorities.

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<sup>17</sup> 1989 Convention on the Rights of the Child, United Nations Treaty Series, vol. 1577, available at: <http://www2.ohchr.org/english/law/pdf/crc.pdf>.

<sup>18</sup> UN General Assembly, *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime*, 15 November 2000, available at: <http://www.unhcr.org/refworld/docid/4720706c0.html> [accessed 14 January 2010].

<sup>19</sup> Council of Europe, *Council of Europe Convention on Action Against Trafficking in Human Beings*, 16 May 2005, CETS 197, available at: <http://www.unhcr.org/refworld/docid/43fded544.html> [accessed 14 January 2010].

<sup>20</sup> The Americas' Regional Guidelines for the Repatriation of Child Victims of Human Trafficking, available at: <http://www.acnur.org/biblioteca/pdf/5269.pdf>.





### **Child Protection Officers, Mexico**

In 2007, the Government of Mexico, with the support of UNHCR and IOM, appointed child protection officers to serve as focal points for unaccompanied children. The total number of child protection officers has now reached nearly 250. The child protection officers are a corps of migration officials who are trained specifically and tasked with providing assistance to unaccompanied children and adolescent migrants. Part of their role is to inform children of their rights and to refer them to the appropriate procedures.<sup>21</sup>

### **Prevention and Reintegration of Returnees, West Africa ISS Project**

This pilot project of the Swiss Foundation of the International Social Service (ISS), in collaboration with the International Institute for the Rights of the Child (IDE), is carried out in several West African countries and has the following objectives: (i) enhance the protection and reintegration of unaccompanied and/or separated children in a transnational context; (ii) reduce the number of unaccompanied and/or separated children in difficult situations; (iii) offer such children prospects for a positive future; (iv) create conditions for the favourable reintegration of children; and (v) facilitate and accompany the reintegration of children in their home countries. This project has enabled over 600 children to reintegrate into their communities and to be sensitized about the dangers of irregular migration and child exploitation. This programme will soon be implemented in five new countries and has become a model of regional cooperation for child protection.

### **Support for Return and Reintegration, SAMAH**

Another practical example mentioned by a child expert was the work of the SAMAH (Stichting Alleenstaande Minderjarige Asielzoekers Humanitas – Humanitas Foundation for unaccompanied child asylum-seekers), a Dutch NGO established in 2000. SAMAH provides, inter alia, support for the return and reintegration of unsuccessful asylum-seeking children and young adults in their respective countries of origin. In addition, SAMAH collects data and provides governments and other agencies with information about the practical implications of their policies on children.

## **2.2 The return of trafficked persons**

Experts pointed out that return is often too easily identified as the solution in the case of trafficked persons. They underlined the importance of the protection dimension of anti-trafficking measures, including proper risk assessments, best interests determinations, and analyses of international protection needs of trafficked persons before channelling them into the return process. In the context of human trafficking, threats often stem from non-state actors, but in some cases State officials are also involved in the trafficking.

Trafficked persons may need specific assistance during the return process and with regard to their reintegration. Some may prefer to return in the company of an escort, particularly unaccompanied minors or those with specific health or security concerns. Many require temporary accommodation in a place of safety, or services such as medical and psychosocial

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<sup>21</sup> For further information, refer to Chapter 6 (page 104) of the Compilation, available at: <http://www.unhcr.org/4a856a549.html>.



support, skills development and career counselling, or other protective measures to promote their rehabilitation and prevent re-trafficking. Trafficked persons may also need legal assistance to help access their right to justice and compensation in the country of origin. Additionally, some experts reiterated the importance of maintaining the confidentiality of information provided by the victim.

Participants recommended specific training and awareness raising for law enforcement officials on the specific needs of trafficked persons.

### **2.3 The return of stateless persons**

In the discussions, the issue of statelessness was also raised in the context of the difficulties people without proper documentation may face in obtaining travel documents. Some persons involved in mixed movements may already be de jure stateless; others risk becoming de jure stateless because they are no longer recognized as nationals by any State. Some may also be in situations of de facto statelessness whereby they possess a nationality but it is not effective.

Possessing a nationality entails the right to re-enter the country of nationality; thus, people who cannot prove their nationality may not be able to return. Furthermore, the possession of a nationality is generally a prerequisite for the enjoyment of the full range of human rights upon return. As a result, stateless persons face increased risks of human rights violations. They are often victims of discrimination and detained because they cannot prove their possession of a nationality. Stateless people may also be denied access to education, health services and the labour market. In this regard, an expert drew attention to the situation of the Roma, Ashkali and Egyptian minorities in the Balkans. These minorities frequently face difficulties obtaining confirmation of their nationality and are subject to social exclusion upon return to Kosovo.

Participants underlined the importance of assisting people to obtain documentation. Under its mandate to prevent and reduce statelessness, UNHCR can offer its recognized expertise to support people to obtain identity and nationality documentation. Where stateless persons are allowed to return to their countries of habitual residence, reintegration assistance may be required along with awareness raising about the specific protection needs of stateless persons. Here again, UNHCR could play a supporting role.

## **3. Working towards sustainable return**

Reintegration into the home country can be challenging. Where the structural factors that forced people to leave their country remain unaddressed, returnees may be unable to reintegrate and, consequently, leave again. Sustaining return also requires availability of, and access to, employment or other means of sustenance in dignified conditions.

Many countries provide assistance for the economic, social and cultural reintegration of the returnee. Such assistance can range from pocket money upon return to a limited reinstatement allowance at the micro-level to a variety of social and economic assistance measures. Participants suggested that the socio-economic profiles and needs of returnees as well as the conditions in countries of origin be taken into account in this respect.

Assistance for the reintegration of returnees is often also necessary for host communities. Improving the situation of an entire community requires longer-term development aid. But it also avoids unintended imbalances in support.



Experts acknowledged that the assessment of the sustainability of return is challenging. Funding for return projects generally only covers a short period of time. This makes it difficult for agencies supporting the return process to accompany returnees over a longer term. While reliable indicators are difficult to identify, two have proven informative: the willingness of the returnee to remain and integrate into his/her community of return, and his/her ability to participate in social events and to engage in meaningful employment in his/her community of return.

#### **4. Post-return monitoring**

Some experts mentioned that monitoring the reintegration of returnees can be an important protection tool in certain return operations. This is particularly the case where concerns are expressed that security and/or reintegration prospects for the returnees remain fragile because of the overall situation in the country or for specific groups such as, inter alia, minorities, unaccompanied and/or separated children, victims of trafficking, stateless persons, and seriously ill persons.

Post-return monitoring can also assist in assessing the sustainability of return and in collecting information on countries of return that might encourage other migrants to return. It allows programmes and support to be adjusted where necessary. In some operations, UNHCR has been involved in such post-return monitoring (as elaborated below). Experts recommended that UNHCR, together with the governments concerned and other partners, explore the possibility of replicating this practice in similar situations.

#### **UNHCR's Post-Return Monitoring Project, Kosovo**

Since 1999, UNHCR has been implementing a post-return monitoring project at the Pristina International Airport in order to gather data, monitor trends and monitor potential protection gaps in relation to forced returns carried out as per application of readmission agreements (namely in Albania, Belgium and Turkey). Returnees belonging to minority groups are interviewed at the airport, and those who need further assistance are referred to appropriate international and local agencies for appropriate follow-up.

Furthermore, periodic field-monitoring missions for members of minority groups who return voluntarily are carried out by UNHCR and implementing partners. These missions have elicited, inter alia, important educational needs among child returnees who often do not speak the local language as well as the risks of internal displacement for up to 75 per cent of the returnees.<sup>22</sup>

### **III. Promoting a collaborative approach for the identification and implementation of solutions for non-refugees**

Participants suggested that effective return policies and programmes require cooperation between the host country and the country of origin as well as the support of a variety of different actors.

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<sup>22</sup> For further information, refer to Chapter 9 (page 171) of the Compilation, available at: <http://www.unhcr.org/4a856b8b2.html>.



## 1. Enhancing international cooperation

Countries of origin and destination do not necessarily share the same perspective and priorities on return policies. For most destination countries, return is an important component of their migration management as it helps control immigration and protects the integrity of the systems, including the institution of asylum. Many countries of origin, however, depend on remittances from migrants abroad, including those in irregular situations. Large influxes of returnees may also exhaust the country's absorption capacity.

The lack of interest of the country of origin in the return of its nationals can lead to obstructions or a refusal to permit return. This can take the form of delays, the requirement of a high standard of proof for nationality in the absence of documentation, the reluctance or refusal to issue travel documents (as highlighted above in the section on the return of stateless persons). Some countries are particularly reluctant to re-admit their own nationals in cases where removal is involuntary or where large numbers of returnees are involved.

Cooperation should not be limited to return only but should include all aspects of the migratory movement, including its push and pull factors. Cooperative arrangements are most effective if they take into account the interests of both the host country and the country of origin. With regard to return, some participants suggested that bilateral or multilateral readmission agreements could address some of the challenges. They could ensure State cooperation on questions such as the means to establish identities, readmission without unnecessarily additional conditions, time frames for requests, and the logistical and technical details of readmission agreements. Participants also recommended that bilateral agreements not pressure the country of return to apply stricter border controls which would limit intra-regional freedom of movement.

### Readmission Agreement between Spain and Mauritania

In 2003, Mauritania signed a readmission agreement with Spain for the return of undocumented migrants intercepted at sea who have transited through Mauritania (by land or by sea). Since 2006, approximately 25,500 undocumented migrants who were intercepted were returned to Mauritania and, subsequently, to their respective countries of origin. Returnees from ECOWAS Member States are allowed to remain in the country, while others are returned to their countries of origin.

A migration reception centre for returnees was also opened in Nouadhibou. UNHCR has access to the centre through its implementing partner in order to determine any potential refugee protection needs. The Spanish Red Cross and the Mauritanian Red Crescent are also operating in the centre.<sup>23</sup>

## 2. Fostering inter-agency cooperation

Non-governmental and inter-governmental organizations play important supporting roles in identifying and implementing solutions for non-refugees. Different phases of the return process, namely the provision of counselling and information to potential returnees, preparing

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<sup>23</sup> The presentation made at the Roundtable will soon be available at: <http://www.unhcr.org/pages/4a16aac66.html>.



migrants for the return process and facilitating voluntary return are outlined above. Due to the trust and confidence these phases often build with potential returnees, they are highly effective as regards return counselling and information dissemination. They also play a critical role by ensuring that the voices of migrants are heard in the development and implementation of return migration management policies.

Participants underlined that inter-agency cooperation implies a common approach and shared objectives to support a more effective migration management. There are, nonetheless, different challenges at each level which need to be recognized. Experts underlined two main challenges: possible competition among agencies; and, at the country level, the view of humanitarian actors versus state policy objectives and national interests which may be in contradiction with international standards.

Participants also agreed that the main inter-agency cooperation framework should be elaborated by the agencies' respective headquarters while cooperation mechanisms should be refined at the field level. In this context, participants acknowledged the relevance of fora such as, inter alia, this expert roundtable and the Global Migration Group, which would enhance inter-agency dialogue and mutual understanding.

### **Inter-agency Cooperation in North Africa: the Case of Morocco**

The UN Theme Group on Migration in Morocco was established under the leadership of UNHCR in 2007. Consultations with institutional and governmental partners and civil society resulted in the adoption of a strategic framework aimed at developing joint programming in (i) strengthening local capacities in migration and development; (ii) capacity-building in promoting rights of refugees and migrants; (iii) protection of trafficked persons; and (iv) assisted voluntary return of non-refugees.

This inter-agency cooperation developed in Morocco goes beyond return migration and includes, inter alia, efforts to address the protection needs of “stranded” migrants in the host country, such as unaccompanied minors, vulnerable women and victims of trafficking, by means of skills training and non-formal education. Another objective of the inter-agency cooperation is to establish local development initiatives, involving local host communities and the experiences of the Moroccan community abroad, with a view to improve the reception facilities for migrants and refugees and to prevent further irregular outward migration.

## **IV. Conclusion and follow-up**

Participants appreciated that the roundtable provided an opportunity to discuss some of the challenges the identification and implementation of solutions for non-refugees can raise. They welcomed the possibility to share experiences and projects that could be replicated elsewhere. Participants also welcomed the variety and complementarities in expertise and approaches which the three co-organizers and other participating agencies brought to the meeting.

The main conclusions of the discussions were as follows:

- The identification of solutions for non-refugees should not be discussed in isolation and should be part of comprehensive migration management strategies. These should be developed in consultation with the countries of origin to achieve better synergies between host countries and countries of origin.

- The resolution of irregular situations for non-refugees requires a differentiated approach which may include options for regularization as well as voluntary return.
- Effective solutions for non-refugees are essential to maintain the credibility and integrity of the asylum system.
- People with specific needs require additional support as well as tailored return and reintegration programmes.
- Post-return monitoring can be an important protection tool, especially in post-conflict situations. It can help to identify and address protection gaps, gather information and adjust state return policies.
- The cooperative approach, which UNHCR, IOM and ILO demonstrated in the meeting, is believed to be the best way forward. The three co-organizing agencies should explore ways as to how they can further enhance inter-agency dialogue and cooperation, including on an operational level. One suggestion put forward for consideration was the development of joint SOPs on the return of non-refugees.

UNHCR, IOM, ILO

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