

Quality Initiative in Eastern Europe and South Caucasus

Description of Phase Two (2015-2017)

INTRODUCTION AND OBJECTIVE

The First Phase of the Quality Initiative in Eastern Europe and South Caucasus (QIEE) implemented by UNHCR (2013 – 2015) focused on improving the asylum space in the region (**Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine**) by improving first instance decision-making practices of the region around the following three mutually-reinforcing pillars: quality assurance, capacity building and country of origin information (COI) in Russian. The Project focused on improving the asylum space and methods of offering protection to refugees and asylum-seekers in the region with specific focus on refugee status determination (RSD) in line with the international standards. Following the successful completion of the pilot project on Quality Initiative in Eastern Europe and South Caucasus Phase I (2013-2015) for asylum officials, the participating countries requested that the project continue with a second phase -- Phase II (2015 - 2017).

RATIONALE FOR PHASE II

Building on progress made in Phase I of the QIEE, the governments involved in the project requested a continuation help bring asylum systems of the region into line with international and European norms. Among the challenges identified for the next phase of QIEE, the following priority areas have been highlighted:

- Need for additional training on asylum law concepts, such as forward looking risk assessment, burden of proof, credibility and benefit of the doubt;
- Need for methodologies/solutions on how to efficiently address the increased workload of asylum bodies due to ongoing conflicts in Ukraine, Syria and Iraq, while retaining the quality of RSD decisions;
- Need to stem the high turnover of the staff in the decision-making process, including addressing issues of burnout and vicarious trauma;
- Need for continuous training of staff, including induction trainings for new hires;
- Need to strengthen the internal quality control mechanisms in the asylum bodies;
- Need to strengthen the capacity of the judicial review to adjudicate asylum-related cases and clarify interpretation of legal provisions through establishing legal precedents and harmonizing judicial decision-making;
- Need to expand the capacity of Border Guard Services of each participating country to ensure access to territory and enhance their knowledge of basic principles of international refugee law, in particular, the principle of *non-refoulement*.

METHODOLOGY OF PHASE II

The approach and methodology in Phase II draws from the experience from the previous pilot phase of QIEE and two EU-funded regional quality assurance actions in Eastern and Southern Europe. Phase II will also be sufficiently flexible for countries to develop objectives and work plans that speak to their most pressing issues and relate to their specific legislative frameworks. The project relies on the governments' ownership of the activities undertaken in close cooperation with UNHCR and the national asylum authorities.

Project Structure:

The Project Implementation Boards (PIB) created in Phase I will be maintained and will include focal points from the national asylum authority and UNHCR and, if deemed relevant in a particular participating country, focal points from border guards and/or judiciary. This Board will exercise leadership in identifying and implementing the activities related to quality assurance in each country, as well as conduct regular monitoring of progress and quality together with UNHCR Regional Project Coordinator and UNHCR representatives/staff in the target countries and/or senior functional officers. National UNHCR focal points in each participating country will continue spending good part of the week working at the national asylum offices monitoring the quality of RSD decisions (at the first and second instances of asylum procedures) and providing constructive feedback and mentoring. They will also assist with the review of court decisions and provide overviews and recommendations on areas for improvement.

Gaps Analysis:

At the onset of the Phase II the parties will commit to QIEE Phase II by signing the official Memorandum of Understanding with UNHCR or exchanging letters committing to continue the QIEE into its second phase. At the beginning of Phase I of the QIEE (2013), the PIBs completed objective evaluations of how their individual country operation assessed asylum claims and developed an analysis of gaps in their respective asylum procedures. They then developed a set of recommendations to close the identified gaps, prioritized the recommendations and developed work plans for implementation. At the end of Phase I, a Progress Report was drafted by the UNHCR staff involved in the project. This Progress Report specifying the remaining gaps (including those at the level of the judiciary and Border Guard services) is to be discussed and agreed upon by the governments involved. Once this review is complete, the PIBs will consider which recommendations to prioritize during the Phase II.

Good Practice Country Exchanges:

The 'good practice' of country twinning was an integral part of the Phase I of the project, during which the QIEE countries were able to exchange experience and receive training and advice from asylum experts in Sweden, Germany, Poland and Romania. Over the course of the next phase of QIEE, the exchange of experience with the EU "good practice" countries will continue and will include at least one study visit and a Training of Trainers (ToTs) on the European Asylum Support Office's (EASO) Training Curriculum. The issues to be dealt with will be agreed upon in line with the participating countries' needs. Study visits will provide officials with options and practical ideas on improving asylum practices in their respective countries.

TIMELINE

Phase II will run from 1 November 2015 to 31 December 2017.

TARGET GROUPS

Asylum adjudication starts from the moment an asylum-seeker appears at the international border and continues through first-instance consideration and various levels of appeal. Hence, it was agreed at the final conference of QIEE Phase I, in Kyiv, Ukraine in May 2015, that the Phase II of the project will continue focusing on the first instance decision-makers but also expand the target groups to include judges involved in asylum-related cases and the border guards of each participating country. These additional target groups will need to be included in separate and specifically designed segments of the QIEE, given their different backgrounds and needs. It is anticipated that some 100 officials of the asylum authorities from **Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine** and some 100 border guards and judges will participate in the QIEE Phase II activities.

First Instance Decision-Makers:

While it is important to expand the participation in the QIEE to judges and border guards, it is also important to maintain the momentum achieved with the first instance decision makes. Arriving at the correct decision at first instance a) means a much more economical and efficient system as resources will only be required at the first instance decision process in the majority of cases; b) increases the protection of refugees by granting bona fide refugees access to a wider scope of rights at an earlier stage; and c) reduces the stress on refugees and the period of uncertainty about their future.

Members of the Judiciary:

While it is important to create a strong first instance decision process, it is also recognized that the judiciary provides an essential safeguard in assuring the quality of decision-making by asylum authorities. The judicial appeal process not only protects refugees who could have their cases wrongly denied, but also helps provide direction and legal clarity to first instance decision-makers in regard to their future decisions.

Border Guards:

Border guards play a key role in identifying, informing and facilitating the referral of persons in need of protection to the competent authorities to assess their applications. Working with the border guards to ensure access to territory and asylum procedures is therefore a crucial aspect of refugee protection. Issues in this respect relate to crucial asylum seeker protection issues, including access to asylum, detention, and safeguarding of refugee rights, while also respecting the need to ensure that their obligations are met.

THREE PILLARS OF QIEE

Similarly to Phase I of the QIEE, the Phase II will focus on three mutually-reinforcing pillars: quality assurance, capacity building and country of origin information (COI) in Russian.

Quality Assurance - Improvements in fairness and efficiency were anticipated through the introduction of quality assurance mechanisms during the Phase I. Checklists, Standard Operating Procedures (SOPs), amendments to the structure of the asylum units to allow for quality assurance and review based on guidance of the EASO, IARLJ and UNHCR.

Capacity Building (training) –During the Phase I of the project, four modules of the EASO Training Curriculum were translated into Russian and offered to eligibility officers in the first instance asylum procedures of the participating countries. Selected officials were identified for ToTs and targeted training and professional development was provided to complement the EASO Training Curriculum modules at the national level in accordance with each DIB’s recommendations. Phase II trainings will continue in this manner for the three target groups selected. Additionally, Phase II will provide participants with EASO practical guides on Interview, Evidence Assessment, Identification of Vulnerable and Access to Procedure, translated into Russian for easier access.

Country of Origin Information (COI) in Russian - COI, an integral part of refugee determination, was seen as an important addition to the tools used by eligibility officers in their work during the Phase I. Since the majority of eligibility officers in the participating countries were not fluent in English, they were constrained by their inability to access a searchable COI database in an accessible language. Consequently, Refworld in Russian was launched during the Phase I to provide accurate, impartial and up-to-date COI from a variety of sources and shall continue its development during Phase II of the initiative. EASO COI publications will also be among those translated into Russian as part of the Phase II.

ACTIVITIES UNDER PHASE II

The regional approach of the QIEE enables training and materials in two languages (Russian and English) to be used in all six countries and encourages cooperation and exchange of best practices. Frank discussions and sharing of ideas and practices will continue to be encouraged through regular regional conferences/workshops and international/regional trainings so that a regional network of asylum professionals will be maintained. The project implementation will be coordinated by the UNHCR Regional Protection Support Unit (RPSU) located in Tbilisi, Georgia and UNHCR staff in the respective country offices.

Where applicable, Phase II will bring together all three target groups (first instance decision-makers, judges and border guards) for more general level training/workshops, while maintaining separate training programs for each target audience in line with their background, knowledge and identified needs.

PILLAR I: QUALITY ASSURANCE

Activities for the First Instance Decision-Makers:

1. *Quality Framework*: During the Phase I, the PIBs developed a quality framework for each national asylum system, which will be used as the basis for Phase II and enhanced during it. The main components of the framework include *inter alia* (i) induction and regular ongoing training; (ii) mentoring programs for the new eligibility staff; (iii) guidelines, information and evaluation checklists, instructions, and SOPs; (iv) regular staff meetings to discuss cases or particular topics; (v) judicial updates; and (vi) structure and checklists for the management review.
2. *Internal Audit Mechanism*: Creation and implementation of internal audit mechanisms to ensure that the quality tools embedded within a national asylum system are maintained through quality control is key to an efficient and transparent decision-making system. Ideally the quality control is implemented by an internal unit/ staff, highly experienced and knowledgeable about international protection as well as the national policies and procedures. Given UNHCR's extensive expertise and experience in internal RSD auditing, the PIBs may wish to create audit mechanism in parallel with UNHCR. Each audit unit/focal point shall prepare written observations of cases independently and meet to discuss good practices and solutions to problems that were identified in the cases reviewed, and provide feedback to the eligibility staff.

Activities for the Border Guards:

It may be possible to assist border managers in participating countries in drafting checklists on steps that should be followed when dealing with an asylum-seeker at the border with specific attention given to addressing the needs and referral procedures for the most vulnerable asylum-seekers. Additionally, Phase II hopes to translate and implement the EASO Access Tool and explore the possibilities for further collaboration with Frontex in this context.

Activities for the Judiciary:

Within the scope of activities in this area, it is envisioned to explore the materials and options for judges' training/quality assurance already developed by EASO, including those in cooperation with IARLJ. The quality assurance tools developed by EASO in the framework of the Further Developing Asylum Quality in the European Union project¹ can be used as the blueprint for the QA measures implemented for the judges within the scope of Phase II.

PILLAR II: CAPACITY BUILDING

The following capacity building training activities will assist the first instance decision-makers, judges and border guards in improving their knowledge and expertise in the field of refugee law and status determination procedures to uphold high quality standards in the area of asylum decision-making.

Activities for First Instance Decision-Makers:

1. *EASO Training Curriculum Training*: UNHCR plans to continue cooperation with EASO, e.g. using the EASO ToT methodology and training modules translated into Russian to develop a wide network of certified EASO trainers in the participating countries, who will subsequently deliver national and regional level trainings in the region. In addition to the four EASO Training Curriculum modules translated and used for ToT during Phase I: Inclusion, Interview Techniques,

Evidence Assessment and Drafting and Decision Making, additional modules and the relevant handbooks developed for them will be selected in consultation with the national asylum authorities and EASO for translation and training. The Russian version of the modules that have been changed/updated since the Phase I trainings will be updated accordingly. Simultaneously, the participating countries will retain the national level training on previously translated modules of EASO Training Curriculum targeting new asylum officials, border guards and judges. In addition, the project will consider for translation the EASO Practical Guides and handbooks on RSD-related subjects.

2. *National-level training*: UNHCR focal points monitoring files on a regular basis will identify areas where targeted training is mandated and additional national-level training on particular subjects will be organized and conducted in each country as per their identified needs, confirmed by the work plans developed and agreed upon at the PIBs. Possible subjects may include but not limited to all aspects of Inclusion, Interview Techniques, Credibility; Interpreting in RSD Context, Working and Interviewing Vulnerable Asylum-seekers; Exclusion. It should also include specialized training for staff involved in RSD on burnout and vicarious trauma. The training may involve international experts and UNHCR experts on the issues in question.
3. *Country of Origin Information Training (COI)*: Firmly establishing access to quality COI and requiring eligibility officers to use COI (and use it correctly) will remain a priority for the Phase II. COI training for staff (eligibility officers and COI researchers) will strengthen the quality of RSD and asylum appeal adjudication throughout the region. Accordingly, training on all aspects of COI and its use, with assistance and participation of leading COI resource agencies, such as EASO, ACCORD, UNHCR will remain the focus of Phase II.
4. *“Good practice countries” Cooperation and Exchanges*: Experienced EU states could provide guidance on their methods of recruitment, qualifications required and induction training for new staff to facilitate better staff retention in the asylum bodies of the participating countries. Best practices for regular professional development of staff involved in asylum decision-making in the established asylum authorities throughout the world and EU “best practice” countries could be of assistance in helping officials in the participating countries develop methodologies to prevent high turnover.

Activities for the Judiciary:

1. *EASO/IARLJ Judges Trainings*: UNHCR intends to apply the ToT methodology when offering trainings to the judiciary. It is anticipated that IARLJ (through its partnership with EASO or independently) could assist the judges in the participating countries to increase their skills and knowledge of refugee law through (a) training on refugee law and jurisprudence; (b) providing guidelines and checklists for judges reviewing RSD appeals (e.g. “Judicial Criteria for Assessing COI” and “Guidelines on Judicial Approach to Expert Medical Advice”); (c) a forum for experience sharing with counterparts from other judicial systems. It is hoped that judges from the participating countries would join International Association of Refugee Law Judges (IARLJ) and participate in the regional and world conferences and have access to the web-based Judges’ Forum. In addition, organizing seminars and round tables with judges from the participating countries and EU partner countries will provide opportunities to discuss good practice, focus on case law and exchange of good practice and knowledge.

2. *National-level trainings*: UNHCR focal points analyzing decisions on a regular basis will identify areas where targeted training is mandated and additional national-level trainings on particular subjects will be organized and conducted in each country as per their identified needs. Possible subjects for national level trainings of judges with heavy reliance on international case law may include *inter alia* all aspects of inclusion; exclusion; credibility and memory; use of COI; special needs of the vulnerable asylum-seekers.
3. *European Court on Human Rights (ECtHR)*: Although ECtHR does not deal directly with asylum as such, its decisions have had far reaching consequences for refugees and asylum-seekers with respect to the principle of no-refoulement (Art. 3), in questions related to admission and removal, treatment of asylum-seekers in host countries including the use of detention (Art. 5) and access to effective legal remedies (Art. 13). Judges participating in QIEE could benefit from judicial study visits to the Court in Strasbourg in which they could view the Court in session and participate in seminars and/or round table discussions with their judicial counterparts from the ECtHR following an introductory training on the jurisprudence of the Court.

Activities for the Border Guards:

1. *Border guards training on fundamental rights and access to protection*: UNHCR will cooperate with Frontex, the EU leading agency on border guard training, to identify potential synergies in Frontex training activities in the region, incorporate and build on Frontex expertise in training of border guards of the six participating states on fundamental rights and THB, with specific focus on the issues related to access to territory, identification and referral of persons in need of protection while respecting international and regional refugee law. The format of the training might take the shape of joint Frontex/UNHCR organized ToT or UNHCR's contribution to replicate specific training on fundamental rights and access to protection at the regional/national levels. Elements of national law pertaining to right to apply for asylum and access to territory as well as issues specific to detention of asylum-seekers in international and national law can be covered under the training agenda for this target group.

PILLAR III: REFWORLD IN RUSSIAN

During the phase I a COI database in Russian was launched in December 2013 (www.refworld.org.ru). The platform was designed to overcome the existing deficit in accurate, impartial, and up-to-date information in Russian and ensure that asylum officials in the Eastern European and other Russian speaking countries have access to comprehensive and unbiased data. Based on the needs identified during the progress analysis, UNHCR will translate key COI documents relating to the most common countries-of-origin of persons seeking asylum in the target countries; legal and policy documents may also be selected for translation. Quality control of translation will be assured by UNHCR staff knowledgeable in International Protection. To ensure its expanded success, however, participants in the project need to continue to recommend translations of refugee materials and use them accordingly.

ⁱ *IBID* at 82