



## **Commitments for Protection and Solutions in OSCE Region**

### **UNHCR Contribution to the OSCE Human Dimension Implementation Meeting**

#### **Working session 16: Humanitarian issues and other commitments II: Refugees and displaced persons**

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#### **I. Introduction**

At the end of 2012, worldwide an estimated 45.2 million persons had unwillingly left their homes or remained in exile as a result of persecution, conflict, generalised violence and human rights violations. Many countries were affected by events precipitating new forced displacement, including in West Africa, the Horn of Africa, North Africa and the Middle East, notably Syria. In addition, an estimated 10 million people around the world did not possess a nationality and were denied the enjoyment of rights as citizens. Some 4.8 million persons of UNHCR's concern are in the OSCE region. They include some 2.4 million refugees and asylum seekers, 1.4 million internally displaced persons and one million returnees, stateless and other persons of concern.

Assisting States to build and strengthen their protection responses and systems is part of UNHCR's core function. UNHCR, together with partners, provides technical and operational assistance to governments; promotes and monitors compliance with international standards; intervenes with governments, as appropriate; directly delivers services in many contexts; provides information and legal advice to persons of concern; and develops and helps implement comprehensive solutions strategies.

In a turbulent year, characterized by insecurity and unrest in a number of regions around the world, emergency response was a key focus of UNHCR's protection activities. Against this background, efforts to build, strengthen and sustain protection systems that can cope with different displacement scenarios - from mass flows in emergency contexts to identifying individuals with protection needs in mixed migration movements - are more timely and relevant than ever.

This statement examines the commitments for protection and solutions in the OSCE region over the past year to strengthen protection systems for persons of concern to UNHCR, particularly refugees and internally displaced persons (IDPs), and the continuing challenges facing the international protection regime.

## II. Protection in emergencies

The last year was dominated by a number of complex and massive displacement crises related to conflicts including in the Syrian Arab Republic. By beginning of September 2013, the total number of refugees who fled the crisis in the Syrian Arab Republic since it began two years ago, surpassed 2 million persons, and the number of internally displaced reached over 4.25 million. The absence of a solution to the conflict in the Syrian Arab Republic, the pace at which displacement continues to escalate and the broader implications for regional security and stability make it one of the most complex conflicts facing the international community, including the OSCE region, today.

The multiplicity of crises, both new and protracted, has tested UNHCR's capacity to deliver both humanitarian assistance and protection. In addition to strains on the Office's operational capacity resulting from large-scale, simultaneous emergencies, the complexity of many operations - involving challenging security and logistical issues - has been significant. Safeguarding protection space and the civilian and humanitarian character of asylum, in particular, have remained key challenges.

UNHCR has also worked to play a more predictable role in the planning, coordination and delivery of protection in refugee emergencies together with its partners. In an effort to improve information sharing UNHCR launched information-sharing web portals on the Syrian Arab Republic and other major operations ([www.data.unhcr.org](http://www.data.unhcr.org)).

A number of countries have implemented an effective protection regime in major emergencies. In the Syria emergency, neighbouring States largely kept their borders open, respected the principle of *non-refoulement* and provided sanctuary for massive numbers of refugees, despite the significant social and economic implications this has had for their own countries. Turkey has formally provided Syrian refugees with temporary protection based on Executive Committee Conclusion No. 22 (1981)<sup>1</sup> and recently incorporated temporary protection into its new national asylum law. The efforts of host countries have saved countless lives and underscore a common commitment to the institution of asylum.

Decisions taken by destination States in Europe to refrain from returning people not only to their countries of origin, but also to overburdened host countries in regions affected by crises were an important contribution in this regard. UNHCR issued a number of advisories, calling on governments not to return persons to such countries and/or regions. *Resettlement and Humanitarian Admission Programmes* continued to be important life-saving tools in the context of emergencies. UNHCR is looking at ways to develop more predictable international cooperative arrangements to share burdens and responsibilities.

In internal displacement emergencies, the protection challenges are compounded by targeted armed attacks, killings, sexual and gender-based violence and forced recruitment, particularly of children. Limited access to internally displaced people and areas of conflict has made protection monitoring and accurately assessing needs extremely difficult in some

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<sup>1</sup> Available from [www.unhcr.org/conclusions](http://www.unhcr.org/conclusions).

countries. In some cases, outreach to communities in the midst of armed conflict is only possible if facilitated by that community itself. In the Syrian Arab Republic, UNHCR is diversifying its partnerships with local organizations, forming an outreach volunteer programme and opening a network of community centres offering counselling, community psychosocial support and other services for persons with specific needs, including the elderly and those with disabilities. UNHCR has continued its well-established cooperation in this area with the Red Crescent and Red Cross Societies.

At the policy level, 2012 saw important efforts by humanitarian actors, through the Inter-Agency Standing Committee's (IASC) Transformative Agenda, to enhance the effectiveness of their response through better leadership, accountability and coordination of the cluster system - particularly in large-scale emergencies. UNHCR launched its own internal process aimed at strengthening, adapting and aligning its emergency response systems with those under development by the IASC.

### **III. Refugee Protection**

The 1951 Convention relating to the Status of Refugees and its 1967 Protocol are two of the most widely ratified international treaties. They are complemented by human rights and regional refugee instruments. A sizeable number of countries adopted new legislative standards. Nonetheless, challenges persist including with respect to State concerns about security, overburdened asylum procedures and economic constraints. It is vital that measures taken to respond to such concerns strengthen, rather than undermine, the institution of asylum. Another trend has been extensive use of complex admissibility, accelerated and "manifestly unfounded" claims procedures in national refugee status determination. Such exceptional processing arrangements need to be accompanied by adequate legal and procedural safeguards to ensure that all applicants for protection receive a fair and effective individual assessment of their claims. Excessive use of such exceptional processes, without sufficient safeguards, has been a problem observed, as has failure to accept responsibility for receiving claims and granting protection where it is required.

#### **A. Legal Frameworks**

The international protection regime functions best when the necessary legislative, administrative, judicial and other elements are in place for States to receive and protect asylum-seekers and refugees.

At the regional level, protection systems have been strengthened. At European Union (EU) level, the European Asylum Support Office has continued intensive work to facilitate practical cooperation among EU Member States, particularly in the fields of training, country-of-origin information and quality assurance, as well as in preparation for a new "early warning mechanism". Many EU Member States have begun legislative review processes following the entry into force of the recast Qualification Directive in early 2012. Legislative reform will continue at national level to enact further changes reflecting the recast Reception Conditions and Asylum Procedures Directives, and where necessary, the Dublin and Eurodac Regulations, following the adoption of these recast instruments in June

2013. Regional courts have also been active in strengthening international protection.

States have also advanced their domestic laws and policies. New or amended laws relating to asylum-seekers and refugees have been enacted in a number of countries, including Kyrgyzstan and Turkey.

UNHCR organized many training courses on refugee law, the law of internal displacement and legal protection in natural disasters. UNHCR convened two global expert roundtables dealing with different aspects of protection: one concerning the interpretation and application of international and regional refugee instruments for persons fleeing armed conflict and other situations of violence; and the other exploring the scope, meaning and application of temporary protection in addressing the contemporary challenges of mixed population movements and complex humanitarian crises. UNHCR launched a new and enhanced version of its online protection information database, Refworld ([www.refworld.org](http://www.refworld.org)), in April 2013.

### **B. Fair and efficient asylum procedures**

Asylum procedures are a core component of any international protection regime. Several States made pledges at UNHCR's 2011 Ministerial Intergovernmental Event to improve their asylum system, among them Greece. Across European countries, recognition rates remain variable for the same caseloads. One positive trend is the growing awareness that people fleeing persecution on account of their sexual orientation and/or gender identity can qualify as refugees under the 1951 Convention.

### **C. Safety, security and enjoyment of rights**

The principle of *non-refoulement* - that no one is to be sent, in any manner whatsoever, to any territory where their life or freedom is at risk - rests at the centre of the institution of asylum. In States, which operate asylum claim determination processes, an individual assessment of every application for international protection is required in order to ensure respect for the principle of *non-refoulement*.

Although they remained exceptional, 2012 did see a number of instances of direct and indirect *refoulement*. *Refoulement* sometimes results from obstructed access to territory or to the asylum procedure, but it also occurs when "safe-third-country" concepts are applied inappropriately in asylum procedures, or when extradition requests are granted without due safeguards for asylum-seekers and refugees. Some cases occurred in spite of interim measures ordering their non-removal from the European Court of Human Rights. Compounding the risk of *refoulement* are: a lack of screening systems in many countries, legal admissibility bars to asylum procedures, readmission agreements implemented without protection safeguards, "pushbacks" of vessels carrying asylum-seekers at sea or other denials of entry at land or air borders, and border closures. To address some of these issues, UNHCR contributed to numerous training and other activities for border officials in several regions, including with the European Border Agency, Frontex.

Restrictions on freedom of movement and the detention of asylum-seekers and refugees - often in substandard or prison conditions - continued to be a concern in many countries.

Mandatory or automatic detention policies, including at borders and in offshore reception centres, were particularly problematic. New UNHCR *Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention* were launched in October 2012.

UNHCR's policy on refugee protection and solutions in urban areas strongly supports the right of refugees to exercise freedom of movement and settle in urban areas.

Intolerance, xenophobia and racism can affect the physical security of asylum-seekers and refugees, as well as other foreigners. UNHCR is seriously concerned by incidents of racially motivated violence in many countries and regions. In Greece, at the initiative of UNHCR and the National Commission for Human Rights, a mechanism has been established to monitor racist attacks by recording incidents through voluntary testimonies of victims. The High Commissioner's 2012 Dialogue on Protection Challenges: Faith and Protection made headway in this area, confirming the convergence and complementarity between international protection and humanitarian principles on the one hand, and fundamental religious values and traditions on the other. More, however, needs to be done by governments and politicians to make it clear that xenophobia and hate crimes are not acceptable in any circumstances.

#### **D. Addressing specific needs**

An age, gender and diversity (AGD)-inclusive approach recognizes that displaced persons are not one homogenous group: they include individuals who have specific needs and capabilities that must be taken into account. UNHCR issued two new "need to know" guides: *Working with Older Persons in Forced Displacement*, and *Working with Men and Boy Survivors of Sexual and Gender-based Violence in Forced Displacement*.

Approximately 50 per cent of all persons of concern to UNHCR are children under the age of 18, including 13 per cent under the age of 5. Together with a number of partners, UNHCR carried out a project on "Protecting Children on the Move", with the aim of strengthening interventions that addressed the protection needs of unaccompanied children covering one of the most frequently travelled routes in Europe through France, Greece and Italy. Also, the Office issued a new tool - *Listen and Learn: Participatory Assessment with Children and Adolescents* - which provides practical, "how-to" guidance on conducting participatory assessments in a more child-friendly way.

Sexual and gender-based violence (SGBV)<sup>2</sup> remains a serious problem for many refugees and asylum-seekers. UNHCR continued to implement its *Action against Sexual and Gender-Based Violence: An Updated Strategy*, which was issued in 2011.

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<sup>2</sup> More information on this issue may be found in UNHCR's *Update on refugee women: promoting gender equality and eliminating sexual and gender-based violence*, EC/64/SC/CRP.12 (4 June 2013), available from [www.unhcr.org/standingcommittee](http://www.unhcr.org/standingcommittee).

#### **IV. Refugee protection and international migration**

UNHCR has remained actively engaged in broader asylum and migration debates, both at the policy and operational levels, ensuring that international protection principles are reflected in the development of responses to migration.

The value of State-led regional cooperation in responding to the complexities of irregular mixed movements was confirmed during 2012. The second Ministerial Conference on refugee protection and international migration in Central Asia was held in June 2013 in Almaty, Republic of Kazakhstan, where a draft Regional Cooperation Framework and a Regional Action Plan for operationalizing the “Almaty Process” have been discussed.

The *10-Point Plan of Action on Refugee Protection and Mixed Migration* remains the primary tool for UNHCR’s engagement in the area of refugee protection and international migration. UNHCR developed a compilation of practical examples in 2012, entitled the 10-Point Plan in Action. In Tajikistan, the Border Management Strategy and its implementation plan are good examples of the inclusion of refugee protection considerations within a broader migration strategy. A number of joint projects, notably between UNHCR and the International Organization for Migration, to address irregular mixed movements and human trafficking are also underway in Africa, the Americas and the Middle East.

At the policy level, UNHCR continued to participate in regional and global processes on migration and development, where they are linked to the Office’s international protection mandate. One example is the Nansen Initiative, co-chaired by Norway and Switzerland and formally launched in October 2012, which aims to build consensus on how best to address cross-border displacement in the context of sudden and slow-onset climate-related disasters. UNHCR has provided input in the United Nations High Level Dialogue on International Migration and Development, which takes place in October 2013, including through ongoing engagement with the Global Migration Group and the Global Forum on Migration and Development.

It remains a concern that a number of “safe country of origin” lists include countries or territories where trafficking is common and which may fail to take into account that victims may be in need of international protection on this basis. UNHCR continued to ensure that victims of trafficking with international protection needs are identified and protected (including in the context of asylum procedures) through cooperation with regional organizations and States including Germany and Switzerland. Canada has initiated policies to increase protection of victims of trafficking.

#### **V. Protection of internally displaced persons**

While States have full responsibility for protecting their own citizens, other actors, including UNHCR, may assist them in discharging this responsibility. In emergency and non-emergency internal displacement situations, UNHCR and its protection partners continued to address, through monitoring, advocacy/awareness-raising, capacity-building and protection interventions, issues such as family separation, multiple displacements, mine risks, SGBV, child protection, housing, land and property rights, and social cohesion.

### **A. Legislative frameworks**

The main achievement has been the progressive acceptance by States of the validity of international standards for IDPs. This is exemplified by growing recognition of the Guiding Principles on Internal Displacement by States.

UNHCR has continued to work with government authorities and partners in various countries to encourage adoption or enhancement of national laws and policies on IDPs and to build institutional capacity, including in Afghanistan and Georgia. It closely cooperates with the UN Special Rapporteur on the human rights of IDPs. In 2012, UNHCR initiated a project on IDP law and institution building funded by the United States of America. The project has helped bring support and technical advice to IDP operations in Afghanistan. UNHCR is also collaborating with the Inter-Parliamentary Union to develop the first handbook for parliamentarians on internal displacement.

### **B. Institutional and operational challenges**

International, regional and national standards for IDPs are meaningful only if effectively implemented in practice. This requires coordinated action by a range of actors within a State, including parliaments, local, regional and national authorities, judicial institutions, and civil society. In this respect, it is essential to reduce potential tensions between IDPs and host communities.

Inter-agency coordination for IDPs is undertaken by UNHCR in 26 countries around the world. UNHCR and its partners in the protection cluster are working with many State actors and civil society groups to identify priority needs. Partnerships are continuing in different forms, including through government-led initiatives to include protection concerns in their contingency planning and various collaborative approaches to social cohesion and protection monitoring and advocacy.

In active armed conflict scenarios, where these challenges are compounded, interventions on the protection of civilians by the protection cluster have seen results. For example, in Afghanistan, joint démarches were made with the military and other armed forces on civilian protection following fatalities due to air strikes.

## **VI. Comprehensive solutions for refugees and internally displaced persons**

### **A. Solutions for refugees**

The protracted nature of many refugee situations, the limited number of refugees accessing resettlement and local integration, and the impact of globalization on human mobility have prompted States and UNHCR to develop comprehensive approaches to solutions for refugees. In Asia, the *Solutions Strategy for Afghan Refugees to support Voluntary Repatriation, Sustainable Reintegration and Assistance to Host Countries* was launched at an international stakeholders' conference in May 2012.

Repatriation is the preferred option for many refugees and in 2012, some 526,000 refugees repatriated voluntarily worldwide.

Efforts to achieve local solutions for refugees were pursued in several contexts. Particular areas of focus included establishing self-reliance and livelihood opportunities; promoting peaceful coexistence among refugee and host communities; and ensuring access to land, housing and basic services, including education and healthcare. UNHCR continued to engage in the Sarajevo Process on refugees and displaced persons and the Regional Housing Programme, which supports durable solutions for those displaced by the 1991-1995 conflicts in the former Yugoslavia.

The increase in the number of resettlement places available globally, from 80,000 to 86,000, was a positive trend. Australia doubled its quota to 12,000 places, while Belgium became the twenty-seventh country to establish a regular annual resettlement programme. Further positive developments included the start of resettlement programmes in Germany and Spain, and progress by several States in implementing their resettlement-related pledges made at the Ministerial Intergovernmental Event. Emergency resettlement was also effective in facilitating rapid departures of particularly vulnerable refugees, as well as for refugees who fled Libya in 2011 and for Iraqis in the Syrian Arab Republic as well as Syrian refugees who are going to benefit from humanitarian admission programmes, using simplified referral processes, launched by Germany (5,000 persons) and Austria (500 persons). Emergency Transit Centres, in Slovenia and Romania, were increasingly used by resettlement countries facing obstacles in expediting departures of vulnerable cases.

74,800 persons were submitted for resettlement in 2012 with more than eleven per cent of submissions benefitting women and girls at risk, surpassing for a second consecutive year the 10 per cent target set out in the relevant Executive Committee Conclusion. Resettlement submissions also increased significantly for refugee populations in protracted situations who were prioritized.

The Annual Tripartite Consultations on Resettlement, chaired by Canada, remained the principal forum for consultation and collaboration to promote resettlement as a durable solution and protection tool. A Joint Resettlement Programme was established by the European Union, with a view to increasing the resettlement intake throughout the EU for targeted refugee populations and vulnerable groups, including in emergency situations. An EU-funded European resettlement network and web-based platform have been established by UNHCR and its partners to support this programme. Collaboration was essential in helping both new and traditional resettlement countries develop more sustainable reception and integration programmes for resettled refugees, including through twinning arrangements.

## **B. Solutions for internally displaced persons**

Progress towards durable solutions for IDPs has been tentative during 2012. While 2.1 million IDPs were reported to have returned in 2012, this is the lowest number since 2003. Large numbers of these returns also took place to countries or areas where ongoing instability, renewed violence or lack of livelihoods may threaten sustainability. In



Kyrgyzstan, the sustainable return of IDPs was facilitated, in part through cooperation with the Government on the restoration of homes and lands and the issuance of property documents. In other areas, unresolved conflict, instability or limited ability to integrate IDPs locally have been obstacles to solutions, including in Afghanistan, the Balkans and the Caucasus. In Georgia, UNHCR continued to provide IDPs with access to housing and livelihood opportunities, together with the United Nations Development Programme (UNDP).

### **C. Partnership for solutions**

Three pilot countries, among them Afghanistan and Kyrgyzstan, have been selected to implement the decision of the Secretary-General's Policy Committee on durable solutions, which establishes priorities and responsibilities to support durable solutions for IDPs and refugees returning to their country of origin.

## **VII. Conclusions**

Conflict, violence and human rights abuses continue to uproot a rapidly increasing number of people around the world. Newly displaced people joined the large number of those already affected by unresolved situations for whom no solutions are in sight. Meanwhile, conflicts have been exacerbated by the simultaneous impact of population growth, urbanization, climate change and food, water and energy insecurity. Growing levels of poverty and unemployment have proven to be sources of social and political unrest. In this environment, functioning protection systems - which respect the right to access asylum and safety, allow for the identification of needs and the fair and expeditious determination of asylum claims, ensure fair treatment and pave the way for the resumption of normal lives - are crucial.

Building, strengthening and sustaining such systems for all displaced persons, including refugees, asylum-seekers and IDPs, is and must remain a common goal. Protection systems are grounded in the commitment of States to assume their responsibilities, but they are also dependent on genuine solidarity, international cooperation, burden and responsibility sharing between States, together with UNHCR and other partners. This was recognized through the many State pledges at the Ministerial Intergovernmental Event in 2011. UNHCR looks forward to continued collaboration with States on the implementation of these pledges and the strengthening of protection systems.

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