



UNHCR's proposals in light of the EU response to the refugee crisis and the EU package of 9 September 2015

UNHCR welcomes the European Commission's package of proposals released on Wednesday 9 September 2015 to address the current refugee crisis in Europe. These proposals are timely, as the number of people having arrived in Europe via the Mediterranean Sea in 2015 so far exceeds 380,000 and is expected to continue rising rapidly over the coming weeks and months, thus creating a sense of urgency for their rapid implementation.

Emergency relocation proposal

The proposed **relocation scheme** for 160,000 refugees from Greece, Italy and Hungary would go a long way to address this crisis. Our initial estimates indicate even higher needs, as many as 200,000 relocation places until end of 2016, but the focus must now be on ensuring that all Member States take part in this initiative, and that it is swiftly implemented. UNHCR considers that this scheme could be used as an emergency measure, and welcomes the proposal for a permanent relocation programme. Refugees' needs, specific qualifications, and preferences should be taken into account to the extent possible in the relocation process.

Reception, assistance, registration

However, the relocation approach can be successful only if it is accompanied by **large scale emergency reception, assistance and registration efforts in the countries most impacted by arrivals**. It is crucial to put in place **immediate** and adequate emergency reception, assistance, registration and screening capacity, building on the initial 'hotspots' concept, in Greece (Lesvos and Kos, as well as Athens) and Hungary, but also Italy. In support to and with the consent of the concerned Governments, the European Commission should mobilize the EU asylum, migration, and civil protection agencies and mechanisms for this purpose, including the resources of Member States, and with the support of UNHCR, IOM and civil society. If necessary, and at the request of the individual governments, the European Union could assume the responsibility for the coordination of these reception efforts, through its European Asylum Support Office (EASO) and in accordance with Articles 1 and 10(b) of the EASO Regulation.¹ UNHCR is fully committed to support such efforts.

UNHCR recalls that the **EU Temporary Protection Directive 2001/55/EC (TPD)**², which has never been activated, was designed to ensure a uniform status and

¹ EUROPEAN PARLIAMENT AND COUNCIL OF THE EUROPEAN UNION, *Regulation (EU) No 439/2010 of the European Parliament and of the Council of 19 May 2010 establishing a European Asylum Support Office*, 19 May 2010. Available online at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:132:0011:0028:EN:PDF>.

² COUNCIL OF THE EUROPEAN UNION, *Council Directive 2001/55/EC of 20 July 2011 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof*. Available online at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2001:212:0012:0023:EN:PDF>. Viewed from the European perspective,

rights across the EU and would allow for fast and simplified processing, resulting in efficiency gains and cost reductions for national asylum systems. The TPD foresees the activation of a solidarity relocation mechanism, financial support and a reception element. With or without the activation of this directive it is important that these objectives are pursued.

In addition, practical measures must be implemented immediately to **address the situation of persons refusing identification**, through the use of positive incentives to register in the first place of arrival (individual/family counselling, provision of neutral information, granting of short-term tolerated stay rights to persons unable to return, such as Syrians). The period during which the individual benefits from such temporary legalization of stay could be used for rest and recuperation after a traumatizing journey and counselling with a view to cooperation. It should be kept in mind, however, that individuals will likely continue to refuse cooperation as long as the perception persists that protection is not available in their current location, hence the need for improved reception and protection, including integration measures, in the locations of arrival.

Steps could also include amendments to the Long-Term Residence Directive (LTRD) to enable international protection beneficiaries to benefit from greater mobility within the EU after three years of residence in an EU Member State [instead of five under the current Directive]. This would also help regularize the situation of protection beneficiaries who have moved on to other Member States and find themselves in a legal limbo.

**Expanded
legal
avenues for
seeking
protection
in Europe**

UNHCR welcomes the reference to opening legal channels for migration. These should also be open for people in need of international protection. UNHCR encourages Member States to expand these legal avenues for refugees, such as enhanced resettlement, family reunification, humanitarian visas, and “refugee-friendly” student and labour migration schemes, for example through the implementation of mechanisms such as the EU Blue Card Directive³ in a way that takes into consideration the specific situation of refugees. With more legal alternatives to reach safety in Europe, fewer people in need of international protection will be forced to resort to smugglers and undertake dangerous irregular journeys.

In parallel, the current family reunification procedures need to be streamlined, and access to them needs to be ensured along the migratory routes currently being used. In the longer term, UNHCR calls for the amendment of the EU Family Reunification Directive⁴ so as to include a broader range of family members who often live in the same household in the country of origin, including elderly parents and dependent unmarried children between 18-25 years of age.

UNHCR is of the view that the influx of Syrians into Europe today could be characterized as a “mass influx” within the meaning of Article 2(d) of the TPD.

³ COUNCIL OF THE EUROPEAN UNION, Directive 2009/50/EC of 25 May 2009 on the conditions of entry of residence of third-country nationals for the purpose of highly qualified employment. Available online at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32009L0050&from=EN>.

⁴ COUNCIL OF THE EUROPEAN UNION, Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification. Available online at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32003L0086&from=EN>.

Combatting smuggling, protecting victims	<p>UNHCR is of the view that strong measures are needed against those involved in trafficking and smuggling rings, in parallel with expanded legal avenues to enter Europe as mentioned above. UNHCR notes that border management measures need to be implemented in a protective sensitive manner that is consistent with States' responsibilities under national, EU and international law, including the right to seek asylum.</p>
Safe Countries of Origin list	<p>UNHCR does not object to the Safe Countries of Origin concept, as long as a country can be removed quickly from a safe countries of origin list when it is no longer considered safe, and that the presumption of safety is rebuttable in an individual procedure. The concept should be applied on a case-by-case basis, taking into account the specific circumstances of a given country and only if the applicant is a national of that country (or, in case of stateless persons, was habitually resident in that country). Any country of origin from which a significant number of nationals or habitual residents require protection should not be regarded as safe.</p> <p>In addition, the EU could consider establishing specialized reception-registration-processing centres in those Member States most affected by the arrival of applicants from Safe Countries of Origin.⁵ This would allow for the national asylum procedure to be condensed to a few days from registration to final decision, with on-site specialized decision-makers and legal aid providers. In this specific context, limitations to freedom of movement could be applied, and returns of rejected claimants could be implemented immediately once a final decision is reached.</p>
Effective return policy	<p>UNHCR supports States implementing effective return policies for people who are found not to be in need of international protection. Linked to the enhanced capacity for reception and screening mentioned above, individuals found not to have a valid protection claim and who cannot benefit from alternative legal means to regularise their stay should be assisted to return quickly to their home countries, in full respect of their human rights. UNHCR welcomes the fact that the EU is ready to engage in strengthened return mechanisms, which could be done with the support of IOM and Frontex.</p>
EU emergency response tool	<p>An EU emergency response instrument for situations of mass influx into the EU territory may also be called for, going well beyond the early warning mechanism foreseen in the Dublin III Regulation, AMIF emergency funding and the Temporary Protection Directive. UNHCR urges the European Commission to consider establishing such a mechanism, as well as ensuring that NGOs are able to access EU funding so they can continue to provide first-line services to refugees and migrants.</p>
Actions outside the EU	<p>In agreement with the authorities of the countries concerned, European Information and Support Offices could be established in key countries of first asylum. These would enable Member States to pool resources to provide accurate</p>

⁵ See notably Articles 36 and 37 of EUROPEAN PARLIAMENT AND COUNCIL OF THE EUROPEAN UNION, *Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast)*, 26 June 2013. Available online at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:180:0060:0095:EN:PDF>.

information and referrals as appropriate, in relation to legal migration channels, asylum, administrative support for family reunion, as well as Assisted Voluntary Return (AVR) support for those not in need of international protection. Information, referrals, or support provided through such Offices should not affect the right of persons arriving in Europe to access asylum procedures there.

In addition, registration needs to be improved, initially in all candidate countries, to ensure that systems and data-sharing protocols enable the exchange of information, family tracing, and security checks between EU and non-EU countries within appropriate data protection frameworks.

**Addressing
root causes**

UNHCR is also pleased to see a reference in the Commission's proposals to the critical need to address root causes of forced displacement around the world, a theme that will also be the topic of this year's High Commissioner's Dialogue on Protection Challenges. A comprehensive response to refugee situations needs diplomacy, political will, and concerted action for the prevention, as well as resolution, of conflicts that force people to move. Greater investment in conflict prevention and resolution as well as durable solutions should therefore form an integral part of Europe's comprehensive approach to addressing forced displacement.

Efforts to address the root causes of the refugee crisis should also include increased funding for humanitarian assistance to stabilize forcibly displaced populations in the regions of origin of those arriving in Europe, most notably countries around Syria, Iraq, Afghanistan and others. In addition, more robust, timely, and sustained structural support for the most-affected refugee-hosting countries is essential, which requires enhanced operational linkages between humanitarian and development actors from the very beginning of a crisis.⁶ As many of the major host states are middle-income countries that cannot benefit from a number of financial support mechanisms, this will require a discussion on the redesign of EU and bilateral development cooperation policies, so as to ensure that middle income countries affected by large refugee flows are included as priority partners.

The upcoming EU-African summit in Valletta could be used as a vehicle to start discussions about a global deal on enhanced cooperation with countries of origin and first asylum. This should include concrete commitments to work towards a stronger link between development cooperation and human mobility, so as to create conditions for people to build a sustainable future for themselves in their own countries.

**Role of
UNHCR**

UNHCR is already ramping up its capacity in all countries affected by the current refugee flows and is ready to fully support all measures by the European Union in effectively responding to the present crisis in a humane and protection sensitive manner.

UNHCR, 10 September 2015

⁶ For example, the humanitarian aid and resilience/stabilization approach adopted by the UN Regional Refugee and Resilience Plan (3RP) for Syrian refugees in the countries neighbouring Syria.