



REGIONAL OPERATIONS PLAN

OVERVIEW

**Western Newly Independent States:
Belarus, Moldova and Ukraine**

Planning Year: 2006

REGIONAL OPERATIONS PLAN 2006

WESTERN NIS REGION: BELARUS, MOLDOVA, UKRAINE

Part I – OVERVIEW

1. Protection and socio-economic environment

This regional operation plan covers the three countries of the Western Newly Independent States (NIS) sub-region, Belarus, Moldova and Ukraine. The three countries share a similar geo-political location. Belarus and Ukraine are located at the eastern border of enlarged Europe since May 2004, while Moldova will be so after 2007. They also face similar challenges with regard to establishing comprehensive migration policies, building asylum systems in line with international standards as well as finding durable solutions for refugees including local integration. In line with the Europe Bureau strategy and starting in 2004, the three countries have started to progressively harmonise their approach in term of asylum system building and to develop cross border linkages both among the states of the WNIS region and between them and the expanded EU. As of 1st January 2004, the UNHCR presence in Ukraine was upgraded to a Regional Representation gradually taking on more responsibilities and support functions for UNHCR operations in the sub-region. In 2006, UNHCR will continue to provide support to Belarus, Moldova and Ukraine to build comprehensive and effective asylum systems and to support durable solutions with a focus on local integration.

UNHCR established its presence in Belarus, Moldova and Ukraine at around the same time to support the respective countries to build and develop asylum systems. In **Ukraine**, UNHCR was also engaged in supporting the government in the integration of Formerly Deported Persons (FDPs), activities which – since then - have mostly been handed over to development agencies but for limited assistance activities to secure legal aid and assistance to FDPs. **Belarus and Moldova** acceded to the 1951 Convention and its 1967 Protocol in 2001 followed by **Ukraine** in 2002.

Over the last few years, and with UNHCR support, Ukraine, Belarus and Moldova have developed legislative frameworks, institutions and structures toward building their asylum systems. Since UNHCR established a presence in the three countries of the region, overall 6,320 asylum seekers were granted refugee status (5,312 in Ukraine, 742 in Belarus and 266 in Moldova). Of those, 3,179 are still registered as residing in the sub-region, the majority in Ukraine (2,459) then in Belarus (663) and Moldova (57). In **Belarus and Ukraine**, many refugees come from Afghanistan, but also from NIS, African countries and the Middle East. In **Moldova**, most refugees come from the Russian Federation (Chechnya). In the three countries, refugees live predominantly in urban areas with a large majority in the respective capital cities Kyiv, Minsk and Chisinau. In 2004, the asylum authorities in WNIS processed overall 1,642 new asylum claims (1,364 in Ukraine, 166 in Belarus and 112 in Moldova) and 143 persons were recognised as refugees (80 in Ukraine, 57 in Belarus and 6 in Moldova). While in **Moldova and Ukraine**, the number of asylum applications over the last few years has generally remained stable, the number of new asylum seekers in **Belarus** has decreased. It is planned that there will be no major changes in **Belarus and Moldova**. In **Ukraine**, it is estimated that the number of asylum applications may increase to 1,600 in 2006. On the other hand, while the number of recognised refugees is planned to remain stable in **Moldova**, it is expected to rise in **Belarus** while it should decrease in **Ukraine** mainly due to resettlement, naturalisation and voluntary repatriation.

Located on the eastern border of the enlarged European Union, the sub-region has become a region of transit for thousand of migrants on their way to Western Europe. The three countries are therefore confronted with the challenge to address illegal migration while providing

asylum to genuine refugees. In **Belarus**, UNHCR estimates the total number of illegal migrants at up to 15,000 – 20,000 a year including some 15% to 20% possibly in need of international protection. In **Ukraine**, the Government has reacted by increasing its border control and apprehension capacities particularly in the western part of the county leading to an increasing number of persons being in need of international protection being detained. In both countries, lack of adequate resources and absence of comprehensive migration policies prevent an effective identification, release and hand over of persons requesting international protection thereby increasing threat of *refoulement*.

All three countries recently improved their refugee legislation though further amendments are still needed to bring them fully in line with the Convention and other international standards and practices. All three countries also yet lack adequate forms of complementary protection. In **Belarus**, a revised the Law on Refugees, entered into force in July 2003. Though the provisions which raised UNHCR concern were greatly improved, UNHCR, however, remains concerned that several provisions contained in the Law on Refugees do not fully comply with international standards relating to refugee protection, i.e. safe third country definition and right for family reunification. The Government was reluctant to introduce substantive changes to the next edition of the Belarusian Law on Refugees in 2004, which would be discussed at the 2005 spring session of Parliament, having limited the amendments only to administrative/structural ones. In **Moldova**, following UNHCR intense lobbying, the Law on the Status of Refugees entered into force in January 2003. The government central asylum authority the Main Directorate for Refugees (MDR) increased its administrative and professional capacity and assumed responsibility of RSD procedures in early 2003. Still the Law on the Status of Refugees needs to be amended to be in line with international standards and practices. In **Ukraine**, a new Refugee Law was adopted in June 2001. Although it included significant improvements, it also opened new protection gaps. UNHCR thus advocates urgent amendments to the Refugee Law, especially a deletion of strict admission deadlines.

Problems of access to international protection are aggravated by yet insufficient reception capacities. In order to increase them, UNHCR, within the framework of a regional project funded by EC TACIS to strengthen national asylum systems, started - in 2003 in Moldova and Ukraine and in 2005 in Belarus - to support the construction of temporary accommodation centres for asylum seekers. At the beginning of 2005, the capacity of **Moldova** and **Ukraine** was increased to 70 and 250 spaces respectively while **Belarus** had a capacity to accommodate 45 persons. UNHCR will continue to support the Governments of the sub-region to increase their reception capacities throughout 2005. Still, UNHCR needs to continue to provide training and advice support so that reception centres are managed according to UNHCR standards as well as to ensure that they have necessary safeguards for women and children.

Some progress in the development of governmental and civil society capacities in the asylum field has been achieved over the last few years. However, government capacities are yet far from being sustainable including due to frequent administrative reforms and turn over of staff as well as to the overall difficult socio-economic situation in the three countries. In 2004, **Belarus** had undergone an institutional reform, whereby the institutional responsibility for refugee issues had been transferred from the Ministry of Labor and Social Protection to a newly established structure within the Ministry of Internal Affairs, the Department on Citizenship and Migration (DOCM). The process was completed at both the central and regional levels by the end of November 2004. As a result, for almost a year, the asylum authorities were not functioning with considerable delays in RSD procedure, since only few of the experienced staff was retained. The current DOCM lacks both competent human resources and technical capacity to deal with refugee issues. In **Ukraine**, the Regional Migration Services (RMS) underwent another reform. Though asylum authorities were able to increase the number of its regional asylum staff, all the human and other resources required

for a sustained functioning remain un- or underfunded. It led to the loss of experienced staff as well as to further gaps and delays in the registration, documentation and status determination of asylum seekers. UNHCR will have to provide considerable technical and legal advice as well as capacity building support to the new Regional Migration Services. It is also possible that further reforms will be initiated due to Government changes following the 2004 presidential elections. In **Belarus, Moldova and Ukraine**, while the capacity of NGOs in the asylum field has been developed, they still remain largely dependant on UNHCR funding though – to some extent – they have started to tap other sources of funding. Still, UNHCR needs to continue to provide them with support to implement activities in the asylum field while continuing to assist them to diversify their donor bases.

UNHCR' support to assist Belarus, Moldova and Ukraine to bring their legislative asylum frameworks in line with international standards, to revise – including the introduction of adequate complementary form of protection – and to effectively implement the Refugee Laws continues to be required. UNHCR will continue to provide technical and legal advice as well as capacity building support to the respective asylum authorities, Main Directorate for Refugees (MDR) in Moldova, Department on Citizenship and Migration (DOCM) in Belarus as well as the State Committee for Nationalities and Migration (SCNM) and regional branches (or successor body due to a/m government changes) in Ukraine. Support to other authorities that play a pivotal role in allowing due access to the territory will also continue to be required. In the three countries, UNHCR will have to maintain its support to NGOs providing legal assistance to ensure access of legal aid. In **Belarus and Ukraine**, UNHCR will implement activities and seek alternative sources of funding to establish and develop comprehensive border monitoring system in entry points where significant number of persons requesting international protection are being apprehended and asylum claims are filed. UNHCR will have also to continue to co-operate with and training of border services to ensure access to RSD and prevent *refoulement* and monitoring and assisting the quality of RSD. In **Belarus, Ukraine and Moldova** UNHCR will have to lend its support to the Government so that separated children asylum seekers can enjoy their rights including access to asylum procedures, identification of guardians and material care arrangements.

Local integration has been pursued as the most practical durable solution for recognised refugees in the sub-region and will continue to be. Generally, if refugees are granted basic social and economic rights, there are still many obstacles for their self-reliance and thereby integration. Those include lack of harmonisation of in the legislative framework, lack of effective access to national services, lack of comprehensive integration strategies as well as difficult economic environment in those countries in economic transition. The effective integration of refugees remains linked to the improvement of the general social and economic situation. While UNHCR will continue to lend its support to respective governments to develop a national and institutional system as well as legal environment conducive to local integration, it will have to remain engaged – through NGOs – in activities to facilitate the self-reliance of refugees and assistance to the most vulnerable groups. In **Belarus**, as a result of progress made in persuading the authorities to accept local integration as a durable solution for the majority of persons of concern, UNHCR strategy will include activities aimed at improving integration possibilities for recognized refugees. Support will be sought from donor countries for funding integration projects in order to stimulate identification of practical solutions for the settlement of refugees in Belarus. Refugees will be assisted to have access to national welfare system. In **Moldova**, UNHCR will have to lobby and support the Government so that refugees are documented and enjoy the right to work. Although an improvement in the economy was recorded in 2004, it is still classified as the poorest country in Europe. In view of the high unemployment and under-employment, many Moldavians seek employment in other countries. In this environment, UNHCR will continue to promote the strengthening of an effective NGO structure to complement Government efforts. The established system should meet the needs of destitute persons and help individuals to become more self-sufficient. In **Ukraine**, while a plan for integration has been approved by the

Government in 2004, it is not translated into concrete activities yet neither it is comprehensive. While according to the Refugee Law recognized refugees should have access to national services to the same level as the nationals, there are still many obstacles – including legal - like the lack of harmonization of branch laws with the Refugee Law and the Convention which affect refugees' access to employment, health and education. Also, national services in many ways are poorly managed and inadequate to effectively meet the needs of the most vulnerable groups. Many key social departments and job employment centers remain unaware of the rights of the refugees. Against this background, support from UNHCR to develop an effective system to facilitate local integration while meeting the refugees needs to facilitate their local integration is still required.

Integration of refugees, can also be hampered by discrimination and for few cases, harassment based on xenophobia and racism. Those problems underline the need of strong public information activities to increase the receptiveness of the public opinion to refugees' and asylum seekers' protection needs and solutions. In close co-operation with partners, UNHCR will have to continue activities to foster a positive and tolerant attitude towards refugees. Jointly with government and NGO partners and with the participation of the refugees, UNHCR needs to continue to support public awareness programmes and to combat negative perceptions about refugees and asylum seekers in a context of mixed migration flows.

While local integration will remain the appropriate durable solution for the refugees, UNHCR will continue to identify the needs for and support other durable solution including voluntary repatriation and resettlement for those who lack protection.

Belarus, Moldova and Ukraine did not access to the 1954 and 1967 Convention on Statelessness. Generally little statistical information on potential, de jure and de facto statelessness is available. In **Belarus** and according to the information received from the Department on Citizenship and Migration of the Ministry of Internal Affairs, there were 10,465 registered stateless persons as of 1st January 2005, a 24% decrease compared to 13,836 persons one year before. The problem of statelessness in Belarus has only been the subject to a preliminary assessment by UNHCR. The initial findings confirm that this problem will need further attention and the development of an appropriate strategy, especially concerning recognised refugees eligible for receiving Belarusian citizenship. In **Moldova**, UNHCR will continue to co-operate with the Presidential Commission on Citizenship and Political Asylum, the Department for Information Technologies, and the Main Directorate for Refugees on issues regarding statelessness and citizenship. In **Ukraine**, UNHCR has continued to be engaged in facilitating the legal integration of Formerly Deported Persons (FDPs) (mainly Crimean Tatars) to Crimea. Since the process started, around 270,000 returned and legally integrated. It is estimated that 6,500 FDPs still lack Ukrainian citizenship or permanent residence permits. In 2004, good progress was made in securing Ukrainian citizenship for returning FDPs and in preparing Ukraine's accession to the UN statelessness Conventions. There are also around 3,000 so called "war refugees" from Abkhazia (Georgia) residing in Ukraine under a special resolution approved by the Cabinet of Ministers. It is estimated that there are around 71,000 persons that may be stateless or threatened with statelessness. However, in 2004, some gaps emerged which direct consequence was to increase statelessness threat for war refugees and other long-term foreign residents, who still hold USSR passports.

Starting in 2003, UNHCR - in cooperation with the Swedish Migration Board (SMB) and IOM and with EC/TACIS funds - established the Cross Border Cooperation Process (CBCP) Secretariat. Based in Kyiv within UNHCR office, the objective of the Secretariat is to serve the interest of the "CBCP/Soderkoping process" countries (benefiting primarily Ukraine, Moldova and Belarus but also to the new EU accession countries Hungary, Latvia, Lithuania, Poland, Romania and Slovakia) by strengthening the role of the western NIS sub-region as a vital partner of the EU in managing irregular migration and improving protection standards in

the region. The Secretariat has proved to be an instrumental entity to facilitate sharing of information and best practices on migration and asylum management among beneficiary countries including on safe third country concept, readmission agreements, reception and treatment of aliens including asylum seekers. The functioning and activities carried out by the Secretariat are funded by the EC till October 2005. UNHCR and the partners of the project currently seek EC funding to continue the activities of the Secretariat beyond this date. The activities of the Secretariat are not included in this regional operation plan.

In view of the regionalisation, UNHCR in Belarus, Moldova and Ukraine strengthened their relations. Also the Budapest Sub Regional Unit extended its assistance to UNHCR in the sub-regions and its partners on various issues including ACCORD (COI), LARC (legal clinics) and CDNP (social services and social clinics) projects which are to be continued in 2006. UNHCR in the three countries of the sub-region also enjoy high level of cooperation with the respective UN Country Teams. Together with UN agencies, UNHCR addresses issues of common concern and advocate for the refugees to be included in development plan and is involved in various theme groups including on HIV/AIDS and anti-trafficking. UNHCR cooperates closely with IOM on issues of border management. It also has excellent contact with the EC which provides financial support to strengthen national asylum system in the sub-region. UNHCR in Belarus, Moldova and Ukraine will continue to seek EC funding to complement / or implement vital activities beyond UNHCR resources. UNHCR cooperates with other partners to build the capacity of the asylum authorities and NGOs including SMB and ECRE. In Moldova and Ukraine, UNHCR cooperated with the Council of Europe.

More specifically in **Moldova**, UNHCR will maintain good co-operation with the OSCE and other international missions including WB, SIDA, DIFID and SDC. The established co-operation with the Council of Europe on the application of the European Convention on Human Rights will continue. Moldova's membership to the Stability Pact will remain an important forum particularly regarding activities aimed at preventing trafficking in human beings. UNHCR will monitor the situation in Transdnistria through contacts with OSCE and human rights organizations as failed political solutions may generate departures of potential asylum seekers to EU countries. In **Belarus**, UNHCR plans to develop linkages to involve UNDP in the field of local integration of the refugees. The cooperation will also be broadened with the IFRC on relevant humanitarian issues. UNHCR will maintain its contacts with the OSCE Advisory and Monitoring Group in Belarus. In **Ukraine**, the UN Country Common Assessment (UNCCA), inclusive of the specific needs of asylum seekers and refugees, was finalized at the end of 2004. UNHCR continues to participate to the UN Development Assistance Framework (UNDAF) which is to be completed in 2005 and plans to continue to cooperate closely with the UNCT to monitor its implementation. UNHCR plans to strengthen its cooperation and combine efforts with UNDP involved in assistance programme for the reintegration of Formerly Displaced Persons in Crimea. UNHCR will continue to cooperate with various national and international NGOs partners, including Caritas Austria which implements a comprehensive programme in Zakarpattya region funded by the EC to address the legal and humanitarian needs of migrants.

2. Operational goals and potential for durable solutions

Derived from strategic framework developed by the Bureau for Europe for the period 2005-2010 and the Agenda for Protection and in view of common challenges faced by the three countries in the sub-region, UNHCR representations in **Belarus, Moldova and Ukraine** agreed on the following common goals and objectives. However, based on the specific situation in each of the countries, the set goals and objectives will vary in term of priority in countries covered by this regional operations plan.

Goal 1: *Persons seeking asylum have access to the territories of Belarus, Moldova and Ukraine and to asylum procedures*

- Persons seeking asylum have access to the territory, asylum information and procedures at airports and borders preventing their *refoulement*
- Asylum applications are transferred and applicants released from unwarranted detention
- Migration policies, programmes as well as sub-regional and cross regional exchanges on migration management account for human rights and refugee protection

Goal 2: *Asylum systems in Belarus, Moldova and Ukraine are developed, their quality improved and their misuses are avoided*

- Asylum legislations are brought in line with Convention and other international standards and practices, including the introduction of adequate forms of complementary protection
- Asylum relevant institutions are developed to become effective and eventually independent from external support
- Adequate reception facilities, managed according to UNHCR standards are available and basic material, social, medical, psychological and educational needs of asylum seekers are met
- Asylum seekers enjoy rights to admission into procedures, registration, documentation, legal representation, personal status and administrative assistance
- RSD decision are taken timely, fairly and with due consideration of international standards, UNHCR guidelines and Country of Origin Information (COI)
- Effective policies and mechanism are in place for the return of unsuccessful asylum seekers to countries of origin

Goal 3: *Asylum systems and practices are responsive to issues of gender and age in Belarus, Moldova and Ukraine*

- Legislation and practices recognise gender based and child specific forms of persecution
- Asylum systems and practices are properly equipped to deal with claims from asylum seeking women and children
- Effective national systems are developed to address the specific rights and needs of vulnerable groups, including survivors of violence and torture, separated children and victims of SGBV
- Reception facilities have necessary safeguards for women and children

Goal 4: *Xenophobia and racism towards refugees and asylum seekers decrease and the integration of refugees is effectively promoted*

- Decision-makers and opinion-leaders are aware of UNHCR's mandate and activities
- Authorities, policy-makers, civil society and the general public understand the specific protection needs of asylum seekers and the local integration needs of the refugees
- Media report fairly on migration and asylum issues, avoiding distortions and stereotypes

Goal 5: *Durable solutions are implemented for refugees and secondary movements is reduced*

- Refugees have a real opportunity to integrate locally through the development of a favourable national and institutional system and legal environment
- Refugees are supported to exercise their rights and to become self-reliant, and the specific needs of vulnerable individuals are met
- Refugees have access to voluntary repatriation
- Eligible refugees have access to resettlement

Goal 6: *Statelessness is reduced and effective solutions for stateless persons are identified*

- Situation of statelessness are actively identified
- Legal frameworks to address statelessness are established in line with international standards
- Stateless people acquire citizenship and appropriate solutions
- Partnership to address the problem of statelessness are strengthened

Goal 7: *Political and financial support for programme and activities benefiting persons of concern in Belarus, Moldova and Ukraine become sustainable*

- Government institutions and programmes benefiting asylum seekers and refugees receive adequate government funding
- Additional resources to support refugee related programmes are generated by NGOs and Governments through tapping to other bilateral and international donors
- Donor base is strengthened to ensure that UNHCR activities are fully funded under annual budget and that UNHCR accesses additional funds for unfunded activities

In term of durable solution, local integration of the refugees will remain the appropriate solution for most of the refugees (*re. Goals 4, 5*) also refer to *part 1. protection and socio economic environment*. Belarus, Moldova and Ukraine plan to support the respective governments to establish a legislative and practical framework more conducive to local integration while implementing multi-sectoral activities to increase the self-reliance of the refugees and thereby their local integration. However, UNHCR will continue to support other durable solutions including voluntary repatriation as well as resettlement for those refugees who lack protection in the sub-region.

The High Commissioner's five commitments for women will continue to guide UNHCR programmes in the region. The offices will promote gender based sensitive asylum system development, SGBV prevention and response (*Goal 3*), empowerment of refugee women, gender mainstreaming and equal access of women to legal and social assistance as well as integration programmes implemented by UNHCR and its partners (*Goals 2,3,5,6*). Particular attention will be focused in developing asylum systems responsive to issues of gender.

The Convention of the Rights of the Child, the 1951 Convention and respective Refugee Law will continue to form the cornerstones for the protection of children of concern of UNHCR. In Belarus, UNHCR will advocate and provide technical and legal advice for the amendment of the Refugee Law and inclusion of right of family reunification. In all the three countries, respective Refugee Law provide for special rights and procedures for separated children. Recognised refugee children are granted the same rights as national children. Together with relevant authorities in the sub-region, UNHCR will continue to monitor and assist the due implementation of those commitments. It will support the respective governments to develop legislation and practices which recognise the child specific forms of persecution (*Goal 2*). In view of the increase number of separated children applying for asylum, UNHCR will provide special focus on this group including with regard to the access to RSD procedures and identification of guardians. UNHCR will provide technical support, training and monitor that reception centres have necessary safeguards for children (*Goals 2, 3*). Refugee children have the same access to national services including to primary and secondary education as national children. UNHCR and its partners will monitor this access, intervene when required and will provide targeted material assistance to the poorest (i.e. school supplies and books, clothing) to secure their access to school (*Goals 2, 5*). UNHCR and its partners will also monitor and when necessary provide support to ensure that asylum seekers and refugee children are issued with birth registration and certificates (*Goals 2, 5*). Some public information and awareness campaign on tolerance will be implemented in schools (*Goal 4*).

In cooperation with relevant agencies (including UNAIDS), UNHCR in the three countries will advocate so that refugees are included and can benefit from national and international programmes developed and implemented to combat HIV/AIDS including in the area of prevention, reduction of discrimination and when appropriate equal access to care and treatment.