Europe as a region of migration and protection

Protection Training Manual for European Border and Entry Officials

Session 1
Structure of presentation

1. Who crosses the external borders of EU Member States?
2. What are the main obligations of the States *vis-à-vis* the different categories of persons?
3. What the statistics tell us
4. The role of each stakeholder:
   - EU Member States
   - UNHCR
   - NGOs
   - Border and immigration control authorities
Who crosses the external borders of the EU?

- All kinds of persons
- Refugees, migrants (regular/irregular)
- Reasons incl. human rights violations, poverty, war
- Some cannot go back to their countries
Irregular migrants have rights like anybody else

- In States of destination and transit
- Because these States have ratified international or regional treaties
- These treaties are applicable to all persons regardless of their nationality or status
Which treaties say so?

The Human Rights Bill:
• Universal Declaration of Human Rights (1948)
• International Covenant on Civil & Political Rights (1966)
• International Covenant on Economic, Social and Cultural Rights (1966)

UN Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990)
Which rights?

- Right to life
- Prohibition against torture and inhuman or degrading treatment
- Freedom from slavery and forced labour
- Right to non-discrimination
- Freedom of movement / limited detention
- Right to a hearing with the assistance of an interpreter if necessary
- Health care
The Definition of a refugee

- the element of fear of persecution
- that the law foresees five possible grounds for persecution
- that the person is outside the country of nationality (or residence) and cannot return to it because of that fear.
The most important obligation of States in relation to Refugees is not to return them to persecution.

1951 Convention on the Status of Refugees:
- Fear of Persecution
- Five possible grounds for persecution
- Outside the country of nationality (or residence)
- Cannot return to it, or is not willing to do so, because of that fear
- Art. 31: right to non refoulement

Convention Against Torture, Art. 3
Victims of trafficking

Trafficking is a transnational crime

International law:
- Palermo Protocols
- UN Convention against Transnational Crime
Definition of trafficking

Trafficking is:

- A series of specific **acts**
  - Recruitment, transportation, transfer...

- Committed using specific **means**
  - Force, coercion, abduction, fraud, abuse of power...

- For specific purposes or **goals**
  - Exploitation for prostitution or other forms of sexual exploitation, forced labour, slavery...
What the statistics tell us

- Irregular entries small fraction of border crossings
- Number of asylum-seekers amongst migrants even lower
- Number of asylum applications in EU countries dropped drastically last years
- On average 40% of persons who reach Europe are deserving of international protection
- Role of border authorities in identifying asylum-seekers crucial.
The Role of the EU: crossing of external borders

- Integrated Border Management System (IBM)
- Schengen Borders Code
- External Borders Fund 2007-2013: €1.82bn
- FRONTEX
- RABITS
- EUROSUR
- Carrier Sanctions
- EU ILOs network (immigration liaison officers)
- Common EU Visa Policy
Common European Immigration Policy

- Family reunification
- Long-term residence
- Residence permits for victims of trafficking
- Return of persons with no legal right to remain
• **Why?** Temporary Protection to displaced persons in situations of mass influx

• **Which** EU MS is responsible to determine an asylum claim? **Dublin Regulation**

• **Who** is a refugee? **Qualification Directive**

• **What** are the minimum reception conditions of asylum seekers? **Reception Directive**

• **How** are asylum claims adjudicated?

• **Asylum Procedures Directive**
UNHCR’s role globally

MANDATE:
• To provide international protection to refugees
• To seek durable solutions to their problems

UNHCR has a supervisory responsibility over Governments’ implementation of the 1951 Refugee Convention
UNHCR’s role globally (cont’d)

ACTIVITIES

UNHCR works with Governments and NGOs towards:

• Securing the admission of asylum seekers into the territory of States and to asylum procedures
• Preventing refoulement
• Assuring minimum standards of treatment of asylum seekers and refugees
• Promoting the reunification of separated refugee families
UNHCR’S ROLE re: mixed migration

To protect refugees travelling in mixed migration movements by:

• Promoting protective migration policies
• Ensuring that refugees are appropriately considered in the political discourse on migration and development
• Supporting States’ legislative efforts (incl. in the areas of migration control, anti-terrorism, social policies, etc) to ensure that the rights of refugees and asylum seekers are protected
• Contributing to the fight against trafficking and to the efforts to address its consequences
To assist States in recognizing and addressing refugee protection needs in situations of mixed migration:

1. Cooperation among key partners
2. Data collection and analysis
3. Protection-sensitive entry systems
4. Reception arrangements
5. Mechanisms for profiling and referral
6. Differentiated processes and procedures
7. Solutions for refugees
8. Addressing secondary movements
9. Return arrangements for non-refugees and alternative migration options;
10. Information strategy
The role of entry officials

As the first authority to enter into contact with people arriving, they must identify persons at border areas who may have protection needs and:

- Ensure non refoulement
- Ensure access to asylum procedures to anyone who applies for asylum, whether expressively or implicitly
- Identify victims of trafficking and their traffickers
- Identify persons with specific needs: unaccompanied/separated children, irregular migrants with health care or other needs, family unity, etc.
- Link up with national referral institutions to respond to the identified needs.
To 'reconcile' border controls with the protection of those crossing borders, entry officials must:

• Become very familiar with international norms and the main protection principles

• Develop good communication skills with persons from different cultures and experiences (e.g. trauma, etc)

• Develop standard operating procedures at the local level to deal with identified needs

• Maintain close working relationships with national referral institutions.

WE WILL WORK ON THIS KNOWLEDGE AND SKILLS DURING THE WORKSHOP!