

Stabilizing the situation of refugees and migrants in Europe *Proposals to the Meeting of EU Heads of State or Government and Turkey on 7 March 2016*

Introduction

This paper sets out UNHCR's proposals both to the European Union (EU) and to the Member States to help stabilize the situation and reduce onward movements of refugees and migrants in Europe. While the vast majority of the world's 60 million displaced are hosted in the developing world, increasing numbers have undertaken perilous journeys to Europe, with over one million having crossed the Mediterranean to Europe since the beginning of 2015.¹ An urgent adjustment of political and humanitarian priorities is needed to meet these new realities.

First and foremost, greater efforts are required to resolve the conflicts that lead to displacement. In the absence of political solutions, the countries that host the vast majority of refugees need support. The international conference on *Supporting Syria and the Region* in London on 4 February 2016 was significant, as the international community pledged more than USD 11 billion to fund activities that can have a stabilizing effect for refugees and their host communities in the region. UNHCR is ready to assist in the implementation of activities under this funding arrangement to address needs already identified and to achieve early improvements in livelihoods and education. Similar initiatives would be important to benefit also Iraqi and Afghan refugees, including those born in Pakistan or Iran. Emergencies in Africa, which remain underfunded, must not be forgotten. Concerted efforts are required now to implement in practice and in a "packaged approach" the outcomes of the Valletta Summit on Migration and to focus on these acute needs.

At the same time, more efficient management of the situation within Europe is urgently needed. The majority of European States have not been directly affected by the present situation. However, the participation of these States in a collective solution is critical to managing it effectively. The collective failure to implement the measures agreed by EU Member States in the past has led to the current escalation in the crisis. A reinigorated approach is needed.

The following proposals set out recommendations for how to achieve this in a spirit of solidarity, restoration of trust among States, and responsibility sharing. They include measures to implement comprehensively the "hotspot" approach and the relocation schemes; support the emergency response in Greece; improve compliance with the EU Asylum Acquis; expand opportunities for resettlement and other pathways for admission; develop protection safeguards for individuals at risk; and develop European systems for more effective allocation of responsibility for asylum-seekers in the mid-term.

1. Implement the hotspot approach and the relocation schemes

The hotspot approach provides for the registration of all arrivals and channeling them into one of three processes: the relocation system, the national asylum system, or the national return process, thereby avoiding onward movement to other States in an irregular manner. However, the registration of refugees and migrants arriving in Greece does not yet meet EU standards. Those eligible for relocation should be referred on for relocation from the hotspots, but this is not yet the case for most. To manage new arrivals in an orderly manner, it is critical that the relocation scheme and hotspot

¹ Developing regions hosted 86 per cent of the world's refugees in 2014: See *UNHCR Global Trends 2014*, available at: http://unhcr.org/556725e69.html#_ga=1.206828630.415352288.1447094070.

approach be fully implemented. Financial support alone from other Member States to Greece or Italy will not stabilize the situation over the longer term. Similarly, the closure of borders may not reduce the numbers arriving in the EU, as fragmentation of the routes is likely to result. This situation can be managed most effectively by carrying out proper registration in line with EU Standards; fully implementing the relocation scheme for asylum-seekers; and ensuring the effective return of individuals not in need of international protection.²

A. Carry out proper registration in line with EU Standards

To address the current deficiencies in registration as a matter of priority, it is recommended that the EU and Member States:

- **Establish the necessary processing capacities** to ensure identification, nationality screening, registration, fingerprinting, security checks, and channeling into respective follow-up procedures. The European Asylum Support Office (EASO) and FRONTEX, working with the Greek authorities, need to step up their support to registration, with EASO taking the lead on the matching processes to facilitate expedited relocation.
- **Address delays in securing connectivity to relevant databases** to ensure the effectiveness and credibility of the system.

B. Implement the relocation scheme for asylum-seekers

The relocation scheme has not yet been implemented effectively with only around 600 asylum-seekers having been relocated to date. The current number of relocation pledges is lower than the average number of daily arrivals on the Greek islands. To implement the relocation scheme fully, it is recommended that Member States:

- **Pledge the 66,000 places agreed upon in September 2015 without delay.** Further pledges will be needed during the year to meet the needs. Sufficient pledges would ensure that most asylum-seekers arriving in Greece and Italy can be relocated and have swift, safe access to protection. Pledges should be made without preferences for certain profiles.
- **Expedite the acceptance of relocation cases** and their transfer.
- **Extend the eligibility threshold** for relocation to nationalities with a 65 per cent protection rate across the EU.
- **Strengthen the overall coordination** and management of the relocation process, including in the operation of the hotspots.
- **Prioritize persons with specific needs** for relocation, e.g. children, survivors of sexual and gender-based violence, and victims of trafficking.
- **Provide further information** and communication on relocation, including through the involvement of refugee communities in communication strategies.
- **Swiftly relocate asylum-seekers** within Europe or determine their cases in Greece or Italy. This would include transferring asylum-seekers (with no specific needs) eligible for relocation

² See UNHCR, *Building on the Lessons Learned to Make the Relocation Schemes Work More Effectively*, UNHCR's Recommendations, January 2016, available at: <http://www.refworld.org/docid/56a076e24.html>.

back to Greece under the Dublin Regulation to enter the relocation process, thereby encouraging them to avail themselves of protection and support provided by EU Member States, as agreed by the European Council. Substantial relocation pledges and adequate reception places in Greece would be required to facilitate such transfers.

- **Use the take charge provisions of the Dublin Regulation** to facilitate the transfer of asylum-seekers in Greece to countries where they have links and which are not participating in the relocation scheme. UNHCR is ready to step up its assistance in relation to such cases.

C. Ensure the effective return of individuals not in need of international protection

The return of individuals not in need of international protection is key to ensuring the integrity of the protection space in Europe and maintaining public confidence in the asylum system. It is recommended that the EU and Member States:

- **Facilitate readmission** of individuals not in need of international protection to third countries or to countries of origin.³
- **On a good offices basis, UNHCR can support the Greek and Turkish authorities** in the implementation of their readmission agreement with respect to persons not in need of international protection in compliance with the 1951 Convention Relating to the Status of Refugees and European and international law.
- **Provide technical and financial support to Greece and the International Organization for Migration** to assist them with assisted voluntary returns and other forms of return.

2. Support the emergency response in Greece

The effective implementation of the relocation scheme and hotspots will require that Greece be prepared with adequate reception capacity to host new arrivals for longer periods of time while all the systems are being put in place. It is recommended that the EU and Member States:

- **Rapidly invest in systems for orderly processing in Greece** (relocation, return/readmission, refugee status determination) to ensure the sustainability of efforts to manage the situation.
- **Provide support for longer-term stay in Greece**, including through the establishment of adequate reception facilities, taking into account age, gender, and diversity considerations.
- **Expedite the roll-out of contingency plans** drawn up to respond to the large numbers of arrivals now remaining in Greece. UNHCR is assisting the Government and EU agencies in Greece with this, including by assisting with additional reception facilities and facilitating workforce recruitment where possible.
- **Reinforce access to protection and durable solutions.** UNHCR will assist Greece and States receiving significant numbers of arrivals to improve access to protection and information,

³ European Union: European Parliament and Council, *Directive 2008/115/EC of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals*, December 2008, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:348:0098:0107:EN:PDF>. See also European Union: European Commission, *Communication from the Commission to the European Parliament and to the Council, EU Action Plan on return, COM(2015) 453 final*, Brussels, 9 September 2015, available at: http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/communication_from_the_ec_to_ep_and_council_-_eu_action_plan_on_return_en.pdf.

including through communicating with communities and with particular attention to those with specific needs.

3. Improve compliance with the EU Asylum Acquis

For the relocation system and existing asylum systems in the EU to function effectively, it is recommended that the EU and Member States take the following measures:

- **Develop mechanisms capable of ensuring that minimum standards for asylum systems are maintained in all Member States**, building on existing structures and frameworks. This could reduce factors contributing to the onward movement of asylum-seekers and refugees and the exclusion of Member States from transfer arrangements under the Dublin Regulation due to non-compliance with standards.
- **Expand the roles of the European Commission and EASO** to support the systematic monitoring of the Common European Asylum System, to ensure the full and coherent implementation of the EU Asylum Acquis, and to take action where needed to address shortcomings.

4. Expand opportunities for resettlement and other pathways for admission

Since 2013, UNHCR has called on States to increase pathways for admission of Syrian refugees, such as resettlement, humanitarian admission, private sponsorships, effective and refugee-friendly family reunion, student scholarships, and labour mobility schemes, so that refugees do not resort to dangerous onward movements and the use of smugglers.⁴ Without such pathways made available now, efforts to reduce these movements through border closures, family reunification restrictions, or other measures will likely meet with limited success. UNHCR is calling for 10 per cent of the Syrian refugee population in the region to benefit from pathways for admission over the next three years in addition to existing annual quotas. A key opportunity to advance such solutions will be on 30 March 2016 at UNHCR's *High-level meeting on global responsibility sharing through pathways for admission of Syrian refugees* where States will be invited to pledge commitments. States are encouraged to:

- **Indicate at the High-level meeting what admissions programmes they are considering**, even if they cannot make firm pledges now. This could include initiatives related to private sponsorship, student scholarships, or labour mobility schemes, or a commitment to revisit the Blue Card Directive to make its provisions more accessible to refugees who often cannot meet the current requirements for documentation and other elements. This could build on the EU's support for increased resettlement through the Conclusions adopted on 20 July 2015 for 20,000 places to be made available by Member States over two years (2015-2017).⁵
- **Enhance pathways for the mutual benefit of persons in need of protection and for host societies**. Pathways for admission present an opportunity for Europe to deliver on humanitarian imperatives, enable refugees to contribute to their host societies in productive ways, and address economic needs within the continent.

⁴ UNHCR, *Central Mediterranean Sea Initiative Action Plan*, available at: <http://www.unhcr.org/531990199.html> and UNHCR, *Special Mediterranean Initiative, Plan for an enhanced operational response, June-December 2015*, available at: <http://www.unhcr.org/557ad7e49.html>.

⁵ UNHCR statistics indicate that just 7,567 persons were resettled from Turkey in 2015, of whom 1,140 were Syrian.

- **Facilitate family reunification.** Despite the right to family reunification under the EU Family Reunification Directive, beneficiaries of international protection face serious practical obstacles to exercising this right. Too often, family members eligible for reunification undertake perilous journeys because they face insurmountable administrative hurdles and lengthy procedures to reunite with their families. States are encouraged, with the support of UNHCR and partners, to simplify and facilitate the process and provide information and assistance for those eligible for family reunification in the EU, countries of transit, and countries of origin.
- **Facilitate resettlement of persons currently in Greece** to countries outside of the EU where they have family members. UNHCR is ready to assist with such cases.

5. Develop protection safeguards for individuals at risk

To ensure access to effective protection, safeguards are required for individuals with specific needs. States are recommended to enhance search and rescue operations; develop coordinated systems to protect unaccompanied and separated children; develop measures to prevent and respond to sexual and gender-based violence; address smuggling and trafficking as a protection issue; and counter exclusion, racism, xenophobia, and Islamophobia.

A. Enhance search and rescue operations

To ensure predictability and compliance of search and rescue operations with international law and EU responsibilities, it is recommended that the EU and Member States:

- **Promote effective cooperation** among national actors, FRONTEX, EUNAVFOR, and NATO, including agreement on common guidelines on interception, rescue, and disembarkation.⁶

B. Develop systems to protect unaccompanied and separated children

Child protection systems are needed for unaccompanied and separated children on the move, that take into account the best interests of the child from a broad perspective that goes beyond considerations of asylum alone. It is recommended that the EU and Member States:

- **Establish specialist child protection services** to uphold the best interests of unaccompanied and separated children from the moment of arrival. UNHCR can assist in developing this concept together with States and partners.
- **Improve age assessment, family tracing, inter-State collaboration, and reunion** with parents in countries of asylum up- or downstream (and sometimes in countries of origin).

⁶ The EU Regulation of May 2014 sets out clear guidelines on interception, rescue, and disembarkation which should be agreed to by all actors, including those not covered by the scope of the Regulation. See REGULATION (EU) No 656/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 15 May 2014 establishing rules for the surveillance of the external sea borders in the context of operational cooperation coordinated by the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32014R0656>. See also UN High Commissioner for Refugees (UNHCR), *Conclusion on Protection Safeguards in Interception Measures*, 10 October 2003, No. 97 (LIV) - 2003, available at: <http://www.refworld.org/docid/3f93b2894.html>.

C. Develop measures to prevent and respond to sexual and gender-based violence

Women and girls on the move are at heightened risk of sexual and gender-based violence as they move onward, often at night, along insecure routes, or staying in places that lack basic security such as parks, trains, railways, or bus stations. They are particularly at risk at the hands of smugglers and traffickers. It is recommended that the EU and Member States:

- **Make efforts to ensure that measures are in place to identify survivors** of sexual and gender-based violence, and refer them to appropriate services.
- **Ensure that all facilities are established to minimize risks**, including through appropriate sleeping facilities, separate sanitary facilities for women and men, and adequate lighting.

D. Address smuggling and trafficking as a protection issue

Smuggling and trafficking are problems for all countries along the route, as organized crime often links the movements. Smuggling and trafficking place individuals at serious risk of harm and exploitation. Saving lives also means cracking down on smuggling. To counter the exploitation and endangerment of people by human smugglers and traffickers, it is recommended that the EU and Member States:

- **Enhance cooperation on combatting trafficking and smuggling as well as information sharing** between authorities and Governments.
- **Undertake mass information campaigns**, including through social media, to provide information on the dangers of engaging with smugglers and traffickers and taking risky journeys. UNHCR and EASO could scale up their existing information activities to assist.
- **Take measures to increase the prosecution and conviction rates** for smugglers and traffickers active in Greece and Turkey.

E. Counter exclusion, racism, xenophobia, and Islamophobia

Racism and xenophobia continue to affect most societies, while clear national strategies to counter them are often lacking or remain unimplemented. What may begin as subtle expressions of dislike and intolerance can develop into institutionalized discrimination, incitement to hatred, verbal and physical abuse, and hate crimes. The refugee and migration movements in Europe, as well as recent security incidents in Europe and elsewhere, have contributed to uninformed and polarized discourse in some instances. It is recommended that the EU and Member States:

- **Demonstrate resolute leadership** to de-dramatize and de-politicize the humanitarian challenges of protecting refugees, by countering xenophobia, humanizing their plight, and providing a better understanding of why persons flee.
- **Develop a clear framework of obligations, as well as rights, of asylum-seekers and refugees** to restore public and political trust. UNHCR is ready to assist in developing this approach.

6. Develop effective European systems for allocating responsibility for asylum-seekers in the mid-term

The willingness of Member States to make binding commitments will be critical to the EU's efforts in controlling its borders and managing refugee and migrant movements effectively both now and in the future. A new approach is needed to ensure that Member States located at the external borders of the EU will not continue to bear a disproportionate burden in addressing immediate reception needs. The solidarity now essential for Greece and Italy may also be required for other States in the future, depending on the evolution of displacement situations. Building on the relocation schemes, the hotspot approach, and the reform of the Dublin Regulation, UNHCR proposes the development of reinforced European systems for the registration and distribution of asylum-seekers that would:

- **Establish European Registration Centres (ERCs)** in the main countries of arrival. All EU Member States would also operate at least one ERC to process asylum-seekers arriving directly and to manage any instances of secondary movement within the EU. At the ERCs, with EASO possibly playing a role, arrivals would be identified, registered, fingerprinted, checked against security databases, and given the opportunity to make an asylum application in line with EU standards, or be identified as not in need of protection.
- **Distribute asylum-seekers among the Member States according to a distribution key** setting out the percentage of asylum-seekers each Member State must take. There would be no quota or upper limit. Factors such as family links, work or study links in a Member State, or knowledge of a language would be taken into account.
- **Permit those granted protection in the Member State of distribution to establish themselves in another EU Member State** after six months subject to certain conditions, including the ability to support themselves. This could be achieved by amendment of the Long-Term Residence Directive.⁷
- **Undertake additional measures to support local integration** and dissuade unsupported secondary movement.
- **Assist those not in need of protection with return**, including under existing readmission agreements.

Conclusion

Europe faces formidable challenges in responding effectively to the arrival of refugees, asylum-seekers, and migrants at its borders and on its territory. With both political will and renewed commitment to cooperation and solidarity, however, these are challenges that can be met. UNHCR urges the EU and Member States to use and further strengthen the tools and instruments they have developed over time in the Common European Asylum System in order to ensure more effective responses for those in need of protection and for others. UNHCR is ready to continue assisting with these efforts in the interests of States, the EU, and those who need international protection.

UNHCR
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⁷ European Union: Council of the European Union, *Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents*, November 2003, available at: <http://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex%3A32003L0109> ["the Long-Term Residence Directive (LTRD)"].