



Ten Point Plan of Action

for Refugee Protection and Mixed Migration For Countries

Along the Eastern and South-eastern Borders of EU Member States

26 June 2007

UNHCR issued the 10-Point Plan of Action in June 2006.¹ The Plan of Action offers a framework to assist States in ensuring that persons in need of international protection who are travelling within broader mixed migratory movements can be identified and provided with an appropriate response. The Plan sets out ten areas where the Office believes initiatives are called for and could make a positive impact. These areas are: 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; and 10) information strategy. The Plan is especially relevant to situations where refugees are at risk of *refoulement* or irregular onward movement.

The 10 Point Plan has been built around the traditional tools used to respond to refugee situations, where UNHCR has expertise and experience to contribute. It locates these tools in the context of mixed migration, guided by an approach that is comprehensive, cooperative and regional/transnational. The Plan proposes a **comprehensive approach** to mixed migration by recognizing that protection objectives will only be achieved if incorporated within a broader migration strategy. The 10 Point Plan is not a proposal for UNHCR alone. It recognizes the importance of a **cooperative approach**, based on partnering between relevant stakeholders (government authorities, international and local governmental and non-governmental organizations, civil society etc.) in order to maximise respective strengths and capacities and to appropriately distribute responsibilities. The Plan also calls for a **regional approach**, involving countries of transit, destination and origin. Where migration is transboundary and cannot be effectively addressed by any one state alone.

This matrix offers suggestions for the implementation of the 10 Point Plan along the Eastern Border of European Union Member States. The examples and suggestions are primarily focused on the EU Member States of Bulgaria, Hungary, Poland, Romania, Slovakia, and Slovenia, as well as the neighbouring countries of Belarus, Moldova, and the Ukraine. However, the paper also aims to promote a broad public discussion concerning these important developments in the entire region along the Eastern border of European Union Member States. The adoption of a co-operative approach is a key priority for UNHCR. The matrix puts particular emphasis on close association between UNHCR and IOM. The Cross-Border Co-operation Programme (also known as the Soderkoping Process²),

¹ In response to comments and requests for clarification, UNHCR issued a revised version of the 10-Point Plan in January 2007. See "Refugee Protection and Mixed Migration: A 10-Point Plan of Action", Revision 1, January 2007. Available in Arabic, English, French, German, Spanish, and Russian.

² See CBCP website <http://soderkoping.org.ua/>

with its Kiev-based Secretariat, also has proven an effective forum for co-operation between the concerned governments, the main international institutions and NGOs. Additionally, the European Commission has recently published a Communication³ for the further development of EU policies for the region. This initiative is an important one and very much welcomed by UNHCR.

All countries in the region are confronted with significant irregular migration, often facilitated by smuggling and trafficking networks. While the region has traditionally served as a point of transit, certain states have become increasingly countries of destinations. However, the various countries in this region vary considerably. Important differences in the legal framework exist particularly between states that are members of the EU and States outside the Union. UNHCR remains concerned that the first response to these challenges often has been to focus on stricter border control and detention of those who arrive irregularly, including asylum seekers and suggests initiatives which Governments could include into their migration strategies to address such protection concerns.

Assumptions/ Constraints	Activities
<h3>1. Co-operation with key partners</h3>	
<p>The European Union, the Council of Europe and other European institutions will continue to be key stakeholders in the development of policies and the drafting of legal instruments which impact on the management of mixed migration flows within and outside of the European Union. The newly established FRONTEX will increasingly become a player with regard to border and entry management and will facilitate the sharing of information between EU member states.</p> <p>Close cooperation with IOM is a key part of an integrated strategy to support Governments in the management of mixed migration, given that persons in need of international protection are fewer in number than migrants without international protection needs. Any meaningful response to the international protection needs of persons of concern to</p>	<ul style="list-style-type: none"> • UNHCR will continue to work closely with Governments, the European Union, the Council of Europe, and international and regional organizations such as IOM, FRONTEX, and the Organization for Security and Cooperation in Europe (OSCE) on policy issues and development in the area of migration management. • Regionally, Governments and UNHCR, in collaboration with IOM, will continue to support the Cross Border Cooperation Process⁴ (also known as the Söderköping Process). This focuses on exchange of experiences, best practices and lessons learnt between recently acceded EU Member States as well as Belarus, Moldova and Ukraine on refugee protection, migration and border management issues. The process is funded by the EU and implemented by UNHCR. IOM and the Swedish Migration Board are project partners. • UNHCR supports a network of NGO partners, <i>inter alia</i>, to provide

³European Commission Communication COM(2007) 247 final of 16.5.2007 “Applying the Global Approach to Migration to the Eastern and South-Eastern Regions Neighbouring the European Union” makes proposals on enhanced dialogue and concrete measures with regard to applying a Global Approach to the Eastern and South-Eastern regions neighbouring the EU.

⁴ See CBCP website <http://soderkoping.org.ua/>

UNHCR has to be integrated into the wider migration management context.

Local and international NGOs within the EU have developed more sustainable and independent structures than NGOs in other States and are increasingly able to contribute directly to the development of policies on asylum and migration.

In countries outside the EU, the need to strengthen the capacity of key national stakeholders, particularly NGOs and civil society more broadly remains a particular challenge.

counseling and material assistance to persons of concern (asylum seekers, refugees, migrants), and to conduct border monitoring.

- UNHCR supports the active involvement of and collaboration with UN Country teams where they exist and with relevant UN agencies, such as UNDP, UNICEF, ILO, and UNODC on cross-cutting migration and human rights issues.

UNHCR will continue to encourage and facilitate cooperation and exchange of best practice at the cross-regional level through study visits and twinning projects (at the governmental and non-governmental level).

2. Data collection and analysis

UNHCR shares the concern of many regional stakeholders that there is a lack of collection, analysis and exchange of reliable data on migratory and asylum flows, as well as on trafficking and smuggling within the region. Further, there is a lack of harmonization and consolidation of statistical data both between State agencies and amongst other stakeholders, leading to an unclear picture of the migratory trends and patterns.

The very limited qualitative and quantitative data analysis ultimately results in inadequate protection responses vis-à-vis asylum seekers, refugees and persons with specific humanitarian needs.

Improvement in the availability of adequate statistics and information related to these movements is a task well beyond the capacity of any individual institution and will require sustained and coordinated efforts, particularly among concerned governments.

- UNHCR will advocate for the creation of harmonized data collection systems so that reliable data on migration (including asylum, trafficking etc.) are available and can facilitate analysis of and responses to migration trends.
- UNHCR will continue to conduct participatory assessments in the context of the Age, Gender and Diversity Mainstreaming (AGDM) process. This, together with other data collection tools, will allow for a better analysis of the groups involved in mixed migration flows and of migratory patterns.
- UNHCR will continue to cooperate with IOM and to support the Soderkoping process for data research, collection and analysis.
- UNHCR will continue to cooperate with academic institutions for data research and analysis, in particular within the framework of the Söderköping process.
- UNHCR will conduct a qualitative and quantitative analysis of available data on migration and asylum trends (routes, reasons for departure etc.). This could be based, e.g. on information contained in individual asylum application files. The process will be carried out in close cooperation with the governments of the countries concerned and IOM (on migration issues), and with full respect for the principle of confidentiality.

3. Protection-sensitive entry systems (at the borders and within national territory)

Migration flows in the region will remain complex and significant.

In both countries of transit and destination, admission of asylum-seekers to territory and asylum procedures will remain difficult on account of increasing border controls and restrictive asylum policies and laws,

Detention will continue to be used as a deterrent to irregular migration, with negative consequences for asylum-seekers.

The absence of adequate interpretation services at border and detention facilities, due to lack of resources as well as lack of qualified interpreters, will continue to make it difficult for asylum seekers and government officials to communicate.

Essential services for asylum seekers with special needs will continue to be very limited, often due to constrained state budgets and insufficient national capacity to cater for vulnerable persons.

- To ensure protection from *refoulement*, UNHCR will strengthen border and reception/detention monitoring, including in the context of the implementation of the Dublin II regulation and readmission agreements. UNHCR border monitoring strategies will emphasise the NGO participation and aim to establish close cross-border cooperation with relevant actors, preferably based on a formal agreement, such as the Hungarian Tripartite Agreement on Border Monitoring.
- UNHCR in collaboration with IOM is promoting a new initiative for border monitoring jointly with interested countries of the European Union, with respect to reception/detention facilities at the Ukraine border with EU Member States.
- UNHCR continues to advocate for the release of asylum-seekers from detention and for the availability of interpretation services. UNHCR will also ensure that relevant information on procedures and rights is fully available in the required languages at borders and detention facilities so that asylum-seekers are in a position to make informed decisions as early as possible.
- UNHCR will place particular emphasis on capacity building and training of border authorities and counselors (legal and social) on international protection principles through a range of targeted training activities, training of trainers' schemes, study visits, exchange of best practices and sensitization campaigns. The Soderkoping process provides an important forum for regional dialogue and exchange of good practices.
- UNHCR will advocate for greater allocation of resources for the development of asylum systems from funding available for border management and border control activities.

UNHCR will continue training authorities and NGOs on methods for early identification of asylum seekers and persons with special needs.

4. Reception arrangements

In Eastern Europe, reception arrangements are seriously inadequate. Reception and transit facilities are often overcrowded and conditions fail to meet minimum standards. Basic services are often below international standards.

New reception centres have been built or are in the process of being built with substantial EU financial support. However, they often remain non-operational due to legal and administrative constraints.

In EU countries in Central Europe, receptions and transit facilities are of better quality, although there remain shortcomings, in particular with regard to provision of services to persons with special needs.

- UNHCR continues dialogue with governments to advocate for the upgrading of reception facilities and conditions, and will carry out a preliminary assessment of the reception conditions in reception centers for asylum-seekers and refugees in Eastern Europe. Based on the findings, UNHCR will help mobilize support to improve the facilities. In particular, through the Soderkoping process UNHCR will develop cooperation with the European Network for Asylum Reception Organization (ENARO).
- UNHCR will facilitate training for the management of reception facilities in Eastern Europe.
- UNHCR will regularly conduct participatory assessments in reception facilities, using the methodology of the Age, Gender and Diversity Mainstreaming (AGDM) process.
- UNHCR will continue to advocate that legal and social counseling be made available from an early stage.
- UNHCR will continue to advocate for the early identification of and the provision of essential services to persons with special needs.
- UNHCR will seek to ensure that mechanisms for the prevention of and response to Sexual and Gender-Based Violence are in place and implemented.
- UNHCR will continue to advocate that the specific needs of victims of trafficking be taken into account and addressed.

5. Mechanisms for identification (profiling) and referral

Countries along the Eastern EU border lack comprehensive and integrated systems for the identification of different categories of persons traveling in mixed movements (asylum-seekers/refugees, victims of trafficking, persons with special needs etc.).

- UNHCR in collaboration with IOM will continue to support the development of relevant information material targeting different groups of arrivals, as well as providing support for counseling services through NGO networks.
- UNHCR, in collaboration with IOM, will continue to promote and facilitate communication and cooperation between NGOs and other

Information that is made available to different categories of persons at borders and in detention facilities is limited and therefore does not facilitate for informed decisions.

stakeholders to ensure that asylum seekers and persons with special needs are identified and supported at an early stage.

- UNHCR will convene, in co-operation with IOM and other partners, a cross-regional conference on the establishment of integrated systems for identification and referral of different categories of migrants.
- IOM and UNHCR will work closely with Governments and other relevant stakeholders in receiving countries as well as in countries of origin and transit, to identify and address the specific protection needs of victims of trafficking.

6. Differentiated processes and procedures

The development of asylum systems is at different stages in the region, and procedures in Central Europe remain more developed than those in South Eastern and Eastern Europe. The insufficient allocation of resources in state budgets adversely impacts on capacity to sustain improvements. Asylum systems are characterised by overly long asylum procedures and the increasing use of detention. Procedural safeguards are limited due to the increasing use of accelerated procedures.

Different procedural standards and safeguards among countries in the region result in persons with comparatively similar protection needs being granted no protection at all, or different types of status.

The application of criteria for the granting of refugee status and complementary forms of protection also differ significantly. Some countries determine asylum and complimentary forms of protection in a single integrated procedure; while others do not have a complementary protection regime at all.

The transposition of EU Asylum Directives into national laws may result in lowering existing protection standards in some EU Member States.

- UNHCR will work with governments and civil society partners to promote fair and effective asylum systems, and in particular to ensure respect for the principle of *non-refoulement*.
- UNHCR will promote the key role of NGOs and academic networks in all aspects of asylum system development, including the elaboration of positive asylum and migration policies and legislation.
- In EU Member States, UNHCR will advocate for the active involvement of NGOs and academic networks in the transposition process of EU Asylum Directives.
- UNHCR will continue to advocate for an inclusive interpretation of the 1951 Convention Relating to the Status of Refugees, as well as for the introduction and implementation of a complementary protection regime in countries where such a regime is not yet in place.
- UNHCR will promote the determination of refugee status and complementary forms of protection in a single procedure.
- UNHCR will advocate that the authorities responsible for the examination of the asylum request under the Dublin II Regulation make a full determination based on the merits of the case, to prevent asylum-seekers from being deported outside the EU without having had effective access to the asylum procedure.
- UNHCR will support concerted action by Governments, NGOs and other partners to limit or preferably end the use of detention of asylum-

The development of asylum systems particularly in Eastern Europe faces major challenges and constraints – including the perceived misuse of asylum procedures and lack of financial and human resources - and continues at a slow pace. Meanwhile, the level of protection offered to asylum seekers remains insufficient.

seekers and identify alternative solutions to detention.

- UNHCR will continue to advocate for accession to the conventions on statelessness, as well as enactment and implementation of national citizenship legislation which incorporates provisions for the reduction of statelessness.

7. Solutions for Refugees

Voluntary repatriation is currently not viewed as a viable durable solution for a significant number of refugees in Europe. The focus is on integration and resettlement.

Integration is the main durable solution for a significant number of persons of concern in EU Member States, whereas resettlement is in many cases the only viable durable solution in Eastern Europe.

Efforts to integrate refugees and persons with subsidiary protection will remain difficult due to a host of factors, including the lack of integration-related policies, laws and structures as well as intolerant, xenophobic and racist attitudes.

Resettlement as a durable solution is hampered due to the limited availability of resettlement quota places for refugees with the profile and background prevalent in this region

Integration

- Within the framework of the Soderkoping process, UNHCR will support the drafting of a comprehensive study on integration of refugees, both from the legal and socio-economic perspectives. The survey will be finalized by end 2007. It will be conducted in close consultation with the governments concerned, civil society and refugees, through a process of participatory assessment.
- UNHCR will support research and surveys on integration prospects for refugees as well as on the sustainability of integration programmes where they exist.
- Together with its partners, UNHCR will advocate for the adoption and implementation of national integration plans and programmes and the creation of a favourable legal framework for integration.
- UNHCR will contribute to public awareness activities in support of integration, in partnership with the government, NGOs and public opinion leaders.
- UNHCR will encourage use of small scale projects to facilitate self-reliance particularly in Eastern Europe.
- UNHCR will continue to advocate and provide support for the naturalization of refugees in countries of asylum and their access to rights with a view to increasing their prospects for integration.

Resettlement

- UNHCR will continue to promote the resettlement of refugees from Eastern Europe as it remains in many situations the only viable durable solution.
- UNHCR will advocate for increasing resettlement opportunities for refugees in the European Union.
- UNHCR will support EU Member States which recently joined the group of resettlement countries through twinning projects with experienced resettlement countries in order to facilitate transfer of expertise.
- UNHCR, in partnership with NGOs, will monitor the situation of resettled refugees in new resettlement countries.

Voluntary Repatriation

- UNHCR will continue to provide information on the situation in countries of origin to all actors involved in the asylum procedures, in order to facilitate access to information by refugees and assist them to make an informed decision on voluntary repatriation.
- UNHCR and partner agencies will continue to facilitate the repatriation process of refugees who wish to return.

8. Addressing secondary movement

Addressing secondary movements of all categories of migrants in the region calls for a long-term and coordinated strategy involving all relevant stakeholders, in particular Governments, the EU, UNHCR, IOM and relevant NGOs.

Secondary movements of asylum-seekers and refugees are mostly triggered by the prevailing disparities in the asylum systems between EU countries and non-EU countries in the region.

It is expected that the slow process of building asylum capacity in countries at the external EU border will not lead to any significant decrease in the disparities in the level of protection offered in the region. Secondary movements will

- UNHCR will continue to advocate for and support the improvement of the protection environment for asylum-seekers and refugees. This strategy implies, *inter alia*, addressing gaps in legislation as well as in the implementation of existing laws, improving reception conditions, ensuring non-discriminatory access to asylum procedures, and enhancing the quality of refugee status determination procedures.
- In cooperation with Governments, UNHCR in collaboration with IOM will further analyse the causes and characteristics of secondary movements in the region so as to enable Governments to adjust response strategies where necessary.
- UNHCR will continue to encourage Governments to respect the provisions of UNHCR Executive Committee Conclusion No.58 on

continue as long as persons of concern believe they will receive more effective protection elsewhere.

Secondary movements of recognized refugees may also take place due to the socio-economic challenges in supporting sustainable integration, in particular in non-EU Member States

Secondary movements by persons seeking effective protection are often perceived by asylum authorities as a misuse of the asylum system, prompting, the adoption of increasingly restrictive asylum policies and legislation. Such measures tend to limit access to the asylum procedure and consideration of asylum claims on their merits.

Secondary movements may also have negative consequences in terms of access to reception centres and to social benefits.

irregular movement, and in particular the principle that asylum-seekers who have moved in an irregular manner from a country of transit/first asylum be returned to this country only if effective protection is available there.

- UNHCR, with its partners, will continue to provide counselling to asylum seekers on potential adverse consequences of secondary movements.
- UNHCR will continue to advocate that no measures restricting access to reception centres and/or social benefit be taken towards asylum seekers and refugees who attempted to leave their country of first asylum in an irregular manner.
- Within the EU, UNHCR will continue to advocate for the implementation of the Office's recommendations relating to the implementation of the Dublin II Regulation, as a means to ensure that effective protection is available in the country responsible for the examination of the asylum application.
- Within the framework of the Soderkoping process, UNHCR, in collaboration with IOM, will support analysis of the questionnaire on "Misuse of Asylum System" completed by government authorities in the region, with a view to establishing and addressing the root causes of secondary movements.

9. Return arrangements and alternative migration options for non-refugees

It is anticipated that the numbers of forced return of persons who are not in need of international protection will remain low, given a series of constraints and complicating factors faced by Governments. Such factors are predominantly linked to the presence of a high number of undocumented migrants, the difficulties faced by returning countries in securing full cooperation by countries of origin, the absence of readmission agreements with most countries of origin, as well as financial constraints.

Governments in the region share the view that the low numbers of persons being returned undermines their efforts to develop asylum systems.

- Within the framework of policy developments, in particular in line with UNHCR Executive Committee Conclusion No.96, UNHCR will continue to encourage states to promote return and readmission of persons found not to be in need of international protection, with full respect for their human rights and dignity and without use of coercive measures.
- UNHCR will continue to cooperate closely with IOM and other partners to provide information on voluntary return options and country of origin information, with special consideration given to the specific needs of victims of trafficking.
- UNHCR in collaboration with IOM will continue to support the Soderkoping process so that a forum for exchanges on return arrangements and alternative migration options for non-refugees is

The number of applicants for voluntary return will remain low as efforts to promote voluntary return are undermined by the strong presence of smuggling and trafficking networks, and the subsequent financial commitments and belief of the migrants that they will eventually succeed in reaching the country of destination.

maintained. A thematic workshop on “Labour Migration, Integration and Remittances” organized by the Secretariat, is to take place in 2007. It will offer a platform for discussion between governments and international organizations on legal migration channels.

- UNHCR will continue to co-operate with and assist Governments to preserve the integrity of asylum systems, including through support for the return of persons not in need of international protection.

10. Information strategy in countries of origin, transit and arrival

Smuggling and trafficking networks encourage persons to attempt to enter the EU illegally by propagating manipulated information about economic opportunities in the EU.

Intolerant, xenophobic and racist attitudes are increasing significantly in transit and in receiving countries. Too often, this results in deliberate violent attacks against persons perceived to be foreigners and the authorities do not always respond appropriately.

Despite its prevalence, xenophobia is rarely a subject of public debate in new EU Member States, and even less so in Eastern Europe.

- UNHCR, in close co-operation with other partners will encourage governments to acknowledge the problem of intolerance, xenophobia and racism and to initiate proactive strategies to combat these attitudes.
 - UNHCR, in close co-operation with other partners, will encourage opinion leaders including politicians, church leaders, intellectuals, artists and celebrities to add their voice against intolerance, xenophobia and racism.
 - UNHCR together with partners, in particular IOM, will continue to support awareness-raising activities on smuggling and trafficking, including amongst asylum seekers and refugees.
 - UNHCR in collaboration with IOM, will motivate journalists through field trips, competitions, interview offers, etc. to publish human interest stories on asylum seekers, refugees and migrants.
 - UNHCR will raise the level of awareness on refugee issues among key target groups (Governments, NGOs, academia, media) through UNHCR channels (web sites, newsletters, mailings, public events, and Goodwill Ambassadors).
 - UNHCR will continue to systematically react to official statements with xenophobic content.

UNHCR, together with partners including IOM, will help to increase the capacity of government authorities and NGOs to campaign against xenophobia by offering training on public relations skills, information on funding sources and by encouraging twinning projects with experienced governments and NGOs.