

Good Practice Example on Training of Border Guards:

Joint Capacity Building Initiative for Border Police and Migration Officials - UNHCR Costa Rica and UNHCR Panama

A) Background and Rationale

Due to the permeability of the border between Panama and Costa Rica, irregular migration of nationals, including persons with international protection needs, from neighbouring countries (particularly Columbia) is a regular occurrence. In 2006 UNHCR offices in both countries began a joint training programme on refugee law for Panamanian and Costa Rican entry officials, raising their awareness of the protection needs of persons entering their territory.

B) Actors

Panamanian and Costa Rican “first contact” entry officials (border guards and immigration officials);
UNHCR Panama;
UNHCR Costa Rica.

C) Actions

- “First-contact” entry officials are chosen from northern and southern entry points between Panama and Costa Rica and from international airports in both countries.
- The training sessions are provided by both offices three to four times per year.
- An informal referral mechanism has also been instituted whereby entry officials contact the respective UNHCR offices when they identify persons with international protection needs.

D) Review

Merits:

More than 400 migration officials and border police receiving training and printed materials on the national procedures in 2007 which has significantly increased the level of awareness and understanding of protection-sensitive entry procedures.

Challenges:

Although the number of cases referred to UNHCR has increased overall, no record is kept of persons denied entry, nor the justifications for doing so.

Good Practice Example on Private Actors and their role in entry management:

Aliens Circular of the Netherlands (2000)

A) Background and Rationale

The Dutch *Aliens Circular* signed by the Minister of Immigration and Integration contains detailed work instructions and policy guidelines for immigration officials and is an important source of information for the Dutch asylum practice. The Aliens Circular contains a special annex clarifying the obligations of private carriers and the legal consequences of their actions.

B)Actors:

Carriers

Dutch authorities (i.e. the ‘Immigrantie en Naturalisatie Dienst’ (IND))

UNHCR

C) Actions:

The Circular provides the following rules and procedures for carriers when dealing with unauthorized and undocumented persons:

- If an unauthorized and undocumented person claims to be a refugee and is a national of the country s/he wants to leave, the carriers are obliged to refer the individual to the Dutch Embassy. If an undocumented person is a national of another State that s/he wants to leave, the carriers are obliged to warn him/her not to leave that State, and to direct him/her to the office of UNHCR. In case of no UNHCR presence, the alternatives would be UNDP or the Dutch Embassy.
- Carriers are obligated to the IND who, in turn, must decide whether the carrier is allowed to transport the individual to the Netherlands. Where the IND gives permission, the carrier will not be prosecuted and the alien will not be detained.
- The carrier is responsible for covering the expenses of the return journey where the individual’s request for asylum is rejected.
- Training is provided to national and international carriers to assist them in improving methods for detecting persons with international protection needs.

D) Review

Merits:

Clear procedural rules guiding carriers on how to assist states in identifying persons with international protection needs is useful for attending to the needs of the individuals quickly and effectively.

Good Practice Example on Monitoring of Entry Systems:

Tripartite Memorandum of Understanding on Border Management (December 2006)

A) Background and Rationale

A tripartite Memorandum of Understanding (MoU) was signed between the Headquarters of the Hungarian Border Guards, UNHCR and the Hungarian Helsinki Committee (HHC) on 28 December 2006 for the purpose of border monitoring. The MoU formalizes the cooperation, roles and responsibilities, as well as the working methodologies between each of the actors.

B) Actors

Hungarian border guards;
UNHCR;
Hungarian Helsinki Committee;

C) Actions

The MoU establishes a monitoring framework with specific responsibilities allotted to all three actors in that framework:

- The Hungarian Border Guards provide UNHCR and the HHC access to the entry points and other locations, as well as to records of arrivals and justifications of (refusal of) entry;
- UNHCR is responsible for the coordination and mobilization of funds for the monitoring project;
- The Hungarian Helsinki Committee is responsible for conducting the monitoring activities.

The MoU also establishes a Tripartite Working Group to oversee the implementation of the agreement and to ensure that joint educational and awareness-raising activities are planned by all three parties.

D) Review

Merits:

The tripartite MoU is an example of how collaboration with UN agencies and non-governmental organizations can assist states in maintaining protection-sensitive entry systems; It is used as a model agreement and is replicated in Romania where an MOU was signed on July 22, 2008 between the Government of Romania, UNHCR Bucharest and the National (Romanian) Council for Refugees.

It has markedly improved access to the territory, asylum procedures, and highlighted the importance of a number of institutional practices that were at variance with the principles of international refugee law;

It has facilitated the access of UNHCR and the HHC to locations where persons of concern are situated;

It has facilitated needs assessments and has led to improved interpretation services, the availability of targeted protection information in the most relevant languages, as well as the early identification of special needs of persons of concern;

It has enabled the identification of trends and patterns in the movements and profiles of persons of concern.