

Ministerial Conference

“Building Migration Partnerships”,

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Statement by the Representative of the
United Nations High Commissioner for Refugees
(UNHCR)

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Statement on 27 April 2009:

Fight against illegal migration

People moving irregularly across borders in and around Europe include besides others some who are in need of international protection. Specific legal obligations arise towards all people seeking asylum regardless of whether they have lawful permission to enter a State at whose borders or in whose territory they are found.

UNHCR prefers the term ‘irregular’ migration, recalling that all people have the right to exit their countries under the Universal Declaration of Human Rights and that Art. 31 of the 1951 Convention on the Status of Refugees prohibits States from penalizing refugees for entering without full compliance with administrative requirements.

UNHCR acknowledges the legitimate interest of States in protecting their borders. However, in designing and implementing measures to combat irregular migration, it is vital to build in safeguards for people seeking asylum. Such safeguards must ensure that asylum seekers can gain access to territory and procedures in which their claims can be fairly examined and

determined. Mixed flows pose a particular challenge in that context.

Reference needs to be made to the High Commissioner's Ten Point Plan for Refugee Protection and Mixed Migration of 2007

UNHCR welcomes references in the draft Declaration to the 1951 Convention and to asylum. However, we consider there is scope in discussions on States' responses to irregular migration to consider ways to address protection concerns more concretely. In relation to border management UNHCR seeks to work with States to ensure border personnel are appropriately trained to identify asylum seekers. We believe this is also important in the context of international cooperation on border control, including through Frontex-coordinated activities, as well as in cooperation between EU MS and 3rd countries.

Readmission, Return

The credibility and viability of asylum systems are closely linked to the return to their countries of origin of persons who have been found in a fair procedure with appropriate legal safeguards not to be in need of international protection. .

UNHCR also acknowledges that in some cases, a person whose asylum claim has not been finally determined may be removed to a [so-called] 'safe' third country provided that access to a full and fair asylum procedure in the third country is assured, and if effective protection is available in that country if needed.

There should be no removal to intermediate countries where migrants or rejected asylum seekers too often find themselves in limbo, where they may see their only alternative as trying to re-enter a gain the intended place of destination, increasingly with reliance on smugglers and traffickers.

Likewise, some receiving transit countries may not have the means, legal or otherwise, to deal with the situations of those returned persons.

For irregular migrants, a sustainable return to the country of origin is the preferred option, if no migration channel is open for the individual after a careful evaluation of the given personal situation and needs. UNHCR welcomes the references in the Declaration to the need of the sustainability of return.

UNHCR has concerns about the inclusion of third country nationals in some readmission agreements, since not all such agreements contain sufficiently detailed safeguards which would guarantee access to asylum procedures for people whose claims may not have been examined in substance, prior to their removal.

Statement on 28 April 2009:

Legal migration

The creation of legal migration opportunities can have a positive impact on a country's asylum system and may help to diminish pressure on asylum systems and reduce its use by non-refugees for purposes unrelated to protection needs.

Migration instruments may offer interim or lasting solutions for refugees and other persons in need of international protection.

- a) Some refugees may be entitled to stay in their host country on other legal grounds, based on regional or national migration law instruments in view of their nationality, family links or specific skills. Such links and skills may also facilitate their integration in the host country, to the benefit of the community as well as the individual.

- b) Other refugees, especially those with specific qualifications, may also meet the criteria of existing legal migration schemes between their host country and a third (destination) country.
- c) In yet other circumstances such migration options could offer a complementary durable solution to some refugees. **Integration**

When it comes to **Integration** refugees and subsidiary protection beneficiaries may have special needs and face particular challenges based on experiences of persecution, flight and exile. Some might have spent prolonged periods of time waiting for a decision with limited access to work and education in the country of asylum. Others might have ongoing medical needs requiring specialized support if they are to integrate effectively in their host societies. These are all challenges that can be met with effective planning and sufficient political will.

Racism, xenophobia and prejudicial attitudes continue to pose significant challenges in many countries. This unfortunate reality is a further barrier to successful integration. States are urged to take measures to change perceptions, build tolerance and to raise public awareness of the positive contributions that newcomers can make to society. For refugees, awareness-raising should also aim to highlight the special needs of people who have fled persecution. Such efforts can facilitate their successful integration to the benefit of host States.

Migration and development

There is a need for more policy linkages and policy coherence in order to maximize the impact of migration and development initiatives. Such linkages could ensure more effective coordination, for instance, between action taken by authorities responsible for interior, foreign and security policy, development cooperation, and immigration policies. Development cooperation rarely focuses

on the vulnerable situations of large groups of people displaced or in displacement. This is, however, a vital piece of the development picture in many countries, where displaced populations could – if factored into such policies and planning – contribute significantly to the development of their host countries, or the countries to which they might wish to return.