



## **Expert Panel Meeting**

# **MIGRATION CRISIS IN THE OSCE REGION: SAFEGUARDING RIGHTS OF ASYLUM SEEKERS, REFUGEES AND OTHER PERSONS IN NEED OF PROTECTION**

**12-13 November 2015  
Warsaw, Poland**

## **Summary report**

OSCE participating States are currently facing unprecedented flows of migrants, including those who are in clear need of international protection, arriving in their territories, generating a significant pressure on their migration and asylum systems. According to the latest UNHCR estimates, more than 814,000 refugees and migrants from North Africa, the Middle East and South Asia – about one-third of them women and children, including unaccompanied minors – have crossed into OSCE participating States in 2015 alone across the Mediterranean Sea and through the Western Balkan States.<sup>1</sup> Many of these migrants and refugees are believed to be fleeing war, violence and persecution in their countries of origin. As of November 2015, an estimated 3,460 people have lost their lives or have gone missing during the journey to Europe.

As part of its comprehensive response to the unfolding crisis ODIHR organized the expert panel meeting “Migration crisis in the OSCE region: safeguarding rights of asylum seekers, refugees and other persons in need of protection” as a one-and-a-half day event at ODIHR’s premises in Warsaw on 12-13 November 2015.

The meeting was organized with a view to inform and support planning of ODIHR’s future activities in the area of migration, freedom of movement and protection of human rights, especially in the context of ODIHR’s comprehensive response to the current migration crisis in Europe. The meeting provided a platform for a first-hand and working-level exchange of the latest information on the situation of asylum seekers, refugees and other persons in need of protection who cross or intend to cross the borders of OSCE participating States affected by the crisis along the Western Balkans migratory route. It further focused on the need to protect their human rights and fundamental freedoms. The meeting also explored lessons learned relevant to the current situation facing these OSCE participating States and identified needs for assistance and support, including from OSCE institutions and field operations. Participants were further invited to present recommendations to ODIHR and the wider OSCE, OSCE participating States and civil society on how to best address current challenges, offering examples of good practices.

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<sup>1</sup> UNHCR’s Europe’s Refugee Emergency Response Update #10 covering period 6 – 12 November 2015; <http://data.unhcr.org/mediterranean/download.php?id=157>

The expert panel meeting gathered representatives from the border and asylum authorities of Austria, Croatia, Germany, Greece, Hungary, the former Yugoslav Republic of Macedonia, Poland, Serbia, Spain, Switzerland and from diplomatic representations from Slovenia and Turkey, as well as experts from the Office of the UN High Commissioner for Refugees (UNHCR), the International Organization for Migration (IOM), Frontex, the OSCE Mission to Serbia, the OSCE Mission to Skopje and the OSCE Secretariat. Representatives from civil society organizations and academia also participated in the meeting, bringing the total number of participants to 45 (25 women and 20 men).

In the three working sessions the participants specifically discussed the implementation of relevant international obligations, OSCE commitments and other international standards, and offered examples of good practices from the OSCE region related to the exercise of freedom of movement, the dignified treatment of persons crossing borders and the protection of related human rights. A particular focus of the meeting was on access to asylum procedures and to basic services such as health care and accommodation at State borders. Discussions also addressed the challenges asylum seekers face when crossing borders, including issues related to the dignified treatment of asylum seekers, refugees and other persons in need of protection. Finally, the participants explored possible ways to further improve the situation of asylum seekers, refugees and other persons in need of protection and to ensure the protection of their rights in line with international obligations, OSCE commitments and other international standards and good practices. Overview of relevant OSCE commitments is included as annex to this document.

## **Conclusions and Recommendations<sup>2</sup>**

1. Faced with the emerging migration and refugee crisis, affected OSCE participating States continue to invest significant efforts toward implementation of their international obligations to respect, protect and fulfil human rights in the governance of their borders.
2. The movement of people in need of international protection from conflict-affected areas bordering the OSCE region is currently taking place along what can be described as a corridor that in effect serves to facilitate transit of people in need of international protection from the southern part of the OSCE region to the northern part. This so-called “corridor” emerged in an *ad hoc* manner as a result of the responses by individual OSCE participating States to the high numbers of persons in need of international protection arriving at their borders.
3. Procedures for the processing of people arriving at the border-crossing points along the so-called “corridor” have deviated from standard border-control procedures and were adopted on an *ad hoc* basis in response to urgent humanitarian needs. Participants expressed the concern that the expedited procedures, being applied only to certain people arriving at designated border-crossing points along the “corridor”,

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<sup>2</sup> These good practices and recommendations are the result of the expert discussion. They have no official status and are not based on consensus of OSCE participating States. Their inclusion in this report does not necessarily reflect the views or policies of the OSCE/ODIHR.

are not consistent with the rule of law and are not economically and politically sustainable in the medium or long term.

4. The existence of the so-called “corridor” where standard border and immigration control and asylum procedures are not implemented has raised expectations among third country nationals seeking international protection or opportunities for economic migration. The “corridor” across the southern part of the OSCE region may reduce the risk to life and safety and the opportunities for people-smuggling along the route, but at the same time it undoubtedly creates a market for people-smuggling in order to gain access to the corridor.
5. Recognizing that persons in need of international protection have a right to be informed about immigration and asylum procedures, border authorities should provide the persons arriving at their borders with comprehensive up-to-date information on entry and asylum procedures in languages understood by persons concerned in a non-discriminatory and culturally sensitive manner to allow all people effective access to the asylum procedure. Efforts should be made also to provide accurate and comprehensive information on the asylum procedures by the destination countries.
6. Participating States should further explore the possibility of using internet-based social media, which has proved as a popular and widespread means of information exchange for asylum seekers, refugees and other persons in need of protection when planning to cross into the territory of OSCE participating States. Social media should be used more effectively for the provision of information at all phases of the route.
7. Vulnerable groups (such as persons with disabilities, women, children, elderly, and unaccompanied minors) among the asylum seekers, refugees and other persons in need of protection crossing into the territory of OSCE participating States along the above-mentioned corridor constitute a major priority for OSCE participating States in terms of ensuring the protection of their human rights and addressing their special needs. States along the corridor should conduct targeted outreach to members of such groups at entry points into their territory and establish and operate proper identification and referral mechanism to address their special needs.
8. Border authorities of OSCE participating States should ensure that they apply a gender-sensitive approach when dealing with asylum seekers, refugees and other persons in need of protection crossing into the territory of their States. To this end, efforts should be made to ensure that border management procedures and practices take into account the differences between men and women, including in the context of socio-cultural norms.
9. Cross-border co-operation and co-ordination of departure from one OSCE participating State and entry into another in an organized manner contributes to the dignified treatment of asylum seekers, refugees and other persons in need of protection. Participants also concluded that the processing of persons upon entry would be expedited if the authorities of the States of departure would send to the neighboring State along the so-called “corridor” advance information on the identity of persons, including their biometric data and time of entry.

10. Sharing of data on the identity of persons, their biometric data and time of entry between border authorities of the affected OSCE participating States, where possible, would greatly enhance the utility of registrations completed upon crossing into the State territory and would result in greater efficiency and significant time-savings. Such data sharing should not be used for purposes other than the facilitation of entry and the security clearance. Participants also acknowledged that ODIHR and OSCE executive structures could play an important role in facilitating agreements and in developing technical provisions for such data exchanges.
11. Participants recognized that further improvement in the situation of persons in need of protection along the so-called “corridor” can only be effectively achieved at a regional level. All affected OSCE participating States, in particular those near the beginning of the route, should work together on integrated responses.
12. Participating States should ensure that their citizens receive accurate and reliable information on the response to the crisis and on the situation of the refugees themselves. Reception and integration of asylum seekers, refugees and other persons in need of protection is most effective where the hosting population is sensitive to the situation of the refugees themselves.
13. Public discourse and the mass media have a key role in disseminating accurate and objective information on the current crisis as a basis for informed policy debate on the management of the situation and for democratic decision-making on the way forward. Accurate and responsible reporting is necessary in order to combat racist and xenophobic attitudes and behavior.
14. In order to pre-empt racist and xenophobic attitudes and behavior, participating States should train police and border officers on hate crimes, discrimination and other forms of intolerance including on how to work with vulnerable and/or traumatized persons. Furthermore, participating States could undertake education initiatives to address stereotypes and bias, focusing in particular on youth. Civil society organizations engaged in victim support and those working with refugees, migrants and asylum seekers should be further empowered and trained on how to identify and report on bias-motivated incidents. ODIHR is encouraged to step up its co-operation with UNHCR, IOM and OSCE field operations in collecting information on bias motivated incidents targeting refugees, migrants and asylum seekers.
15. Across the OSCE region, civil society has played a crucial role in responding to this emergency, especially at points of arrival where volunteers have proved indispensable as a first response. While recognizing that the ultimate responsibility for the protection of human rights lies with States, civil society continues to have an important role in responding to particular needs, such as the provision of information, and in developing links with hosting communities as well as in advocacy and monitoring.
16. Integration prospects in the countries of destination constitute the major pull factor of migration of persons in need of protection along the so-called “corridor”. Some participants raised concerns that in spite of an open-door policy for asylum seekers and refugees, and targeted programmes for their integration, national capacities are limited and protection can only be ensured through effective relocation mechanisms.

Solid opportunities for integration into host societies are critical to ensure the effectiveness of relocation. In the current situation, where integration standards and prospects are not equal across the OSCE region (or even within the European Union), some OSCE participating States will remain preferred countries of destination, resulting in an unequal sharing of the responsibility for refugees' protection. For those reasons, OSCE participating States should expand global resettlement initiatives in co-operation with UNHCR (including through the funding of such initiatives), in order to drastically increase the total number of resettlements following the systematized and streamlined registration of asylum seekers and refugees, and the review of their appeals for international protection.

17. Participating States should consider additional migration schemes that may be beneficial to apply or expand to help reduce the number of refugees and asylum seekers in need of international protection (e.g. education and labor migration schemes). Participants also noted the need to explore the use of other options for legal entry particularly the use of humanitarian visas or family reunification.
18. Participants stressed that the OSCE participating States should implement their commitments on the integration of migrants as well as relevant international good practices in this area. They recommended that ODIHR should continue assisting the OSCE participating States to facilitate effective and harmonious integration of migrants to the benefit of both the receiving society and the migrants themselves. To fulfil this task, ODIHR should focus on raising awareness, promoting the exchange of relevant good practices and the capacity-building of the competent national authorities in relation to migrant integration in the OSCE region in line with OSCE commitments and international standards.

## **Expert Panel Meeting**

### **Migration Crisis in the OSCE Region: Safeguarding Rights of Asylum Seekers, Refugees and Other Persons in Need of Protection**

#### **Annex to the Summary Report**

Since the signing of the Helsinki Final Act in 1975, the CSCE/OSCE has accumulated a substantial body of commitments in the fields of human rights, democracy, rule of law and national minorities. These commitments relating to the so-called human dimension of the OSCE are contained in an ever-growing set of documents adopted by CSCE/ OSCE Summits and other political forums.

The OSCE commitments form the basis of the work of the Organization and were developed jointly and adopted unanimously by all participating States. They establish clear standards for the participating States in their treatment of each other and of all individuals within their territories.

#### **Selected OSCE Commitments**

##### **Selected commitments on migration**

###### **Helsinki 1992** (Decisions: VI. The Human Dimension)

“The participating States

(39) Express their concern over the problem of refugees and displaced persons;

(40) Emphasize the importance of preventing situations that may result in mass flows of refugees and displaced persons and stress the need to identify and address the root causes of displacement and involuntary migration;

(41) Recognize the need for international co-operation in dealing with mass flows of refugees and displaced persons;

(42) Recognize that displacement is often a result of violations of CSCE commitments, including those relating to the Human Dimension;

(43) Reaffirm the importance of existing international standards and instruments related to the protection of and assistance to refugees [and will consider acceding to the Convention relating to the Status of Refugees and the Protocol, if they have not already done so]

(45) Welcome and support unilateral, bilateral and multilateral efforts to ensure protection of and assistance to refugees and displaced persons with the aim of finding durable solutions...”

###### **Istanbul 1999** (Charter for European Security: III. Our Common Response)

22. We reject any policy of ethnic cleansing or mass expulsion. We reaffirm our commitment to respect the right to seek asylum and to ensure the international protection of refugees as set out in the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol, as well as to facilitate the voluntary return of refugees and internally displaced persons in dignity and safety.

###### **Ljubljana 2005** (Border Security and Management Concept: Framework for Co-operation by the OSCE Participating States):

“2.The OSCE participating States reaffirm the obligations and commitments on border related issues that they have undertaken at all levels:

2.1 At the global level: On border security and management issues, the participating States reaffirm their commitments under international law, in particular international human rights, refugee and humanitarian law, and may consider as well standards and recommendations laid down by the World Customs Organization, the International Organization for Migration, the International Labour Organization, the United Nations High Commissioner for Refugees and other relevant international organizations;

(...)

4. The participating States will promote co-operation between their border services, customs authorities, agencies issuing travel documents and visas, and law enforcement and migration agencies, as well as other competent national structures, with a view to achieving the following aims:

....

4.5 To promote dignified treatment of all individuals wanting to cross borders, in conformity with relevant national legal frameworks, international law, in particular human rights, refugee, and humanitarian law, and relevant OSCE commitments...”

### **Selected commitments on combating racism, xenophobia with relevance to refugees, migrants and asylum seekers**

**Maastricht 2003** (Decisions: Decision No. 4/03 on Tolerance and Non-discrimination)

The Ministerial Council,

(...)

12. Undertakes, in this context, to combat, subject to national legislation and international commitments, discrimination, where existing, against asylum seekers and refugees, and calls on the ODIHR to reinforce its activities in this respect;

**Madrid 2007** (Decisions: Decision No. 10/07 on Tolerance and Non-Discrimination: Promoting Mutual Respect and Understanding)

The Ministerial Council,

(...)

Underscoring that the primary responsibility for addressing acts of intolerance and discrimination rests with participating States, including their political representatives,

(...)

Recognizing that manifestations of intolerance and discrimination can undermine the efforts to protect the rights of individuals, including migrants, refugees and persons belonging to national minorities and stateless persons,

(...)

Acknowledging the specificity of different forms of intolerance, while at the same time recognizing the importance of taking a comprehensive approach and addressing cross-cutting issues

(...) in order to effectively combat all forms of discrimination,

1. Calls for continued efforts by political representatives, including parliamentarians, strongly to reject and condemn manifestations of racism, xenophobia, anti-Semitism, discrimination and intolerance, including against Christians, Jews, Muslims and members of other religions, as well as violent manifestations of extremism associated with aggressive nationalism and neo-Nazism, while continuing to respect freedom of expression;

7. Calls on participating States to protect migrants legally residing in host countries and persons belonging to national minorities, stateless persons and refugees from racism, xenophobia, discrimination and violent acts of intolerance and to elaborate or strengthen

national strategies and programmes for the integration of regular migrants, which also requires active engagement of the latter;

**Sofia 2004** (Decisions: Annex to Decision No. 12/04 on Tolerance and Non-discrimination; Permanent Council Decision No. 621: Tolerance and the Fight against Racism, Xenophobia and Discrimination)

The Permanent Council,  
(...)

In order to reinforce our common efforts to fight manifestations of intolerance across the OSCE region,

Decides,

1. The participating States commit to:

- Take steps, in conformity with their domestic law and international obligations, against discrimination, intolerance and xenophobia against migrants and migrant workers;
- Consider undertaking activities to raise public awareness of the enriching contribution of migrants and migrant workers to society;

(...)

**Ljubljana 2005** (Decisions: Decision No. 10/05 on Tolerance and Non-Discriminations: Promoting Mutual Respect and Understanding)

The Ministerial Council,  
(...)

5. Decides that the participating States while implementing their commitments to promote tolerance and non-discrimination will focus their activities in such fields as, inter alia, legislation, law enforcement, education, media, data collection, migration and integration, religious freedom, inter-cultural and inter-faith dialogue, and commit to:

5.1 Consider increasing their efforts to ensure that national legislation, policies and practices provide to all persons equal and effective protection of the law and prohibit acts of intolerance and discrimination, in accordance with relevant OSCE commitments and their relevant international obligations;

5.2 Strengthen efforts to provide public officials, and in particular law enforcement officers, with appropriate training on responding to and preventing hate crimes, and in this regard, to consider setting up programmes that provide such training, and to consider drawing on ODIHR expertise in this field and to share best practices;

(...)

**Athens 2009** (Decisions: Decision No. 5/09 on Migration Management)

The Ministerial Council,  
(...)

1. Encourages the participating States to continue to work on migration management by:

(...)

- Respecting the human rights of migrants and increasing efforts to combat discrimination, intolerance and xenophobia towards migrants and their families;

(...)