

## Background paper<sup>1</sup>

### **Theme 1: Coordinated responses to mixed movements: Partnerships and collective action to protect rights**

#### **Roundtable Session 1.1: *Providing regular pathways from crisis to safety***

##### **Introduction**

Around the world, migrants who have no access to options for regular migration continue to risk their lives in search of safety and dignity by turning to dangerous routes and means of travel. Many migrants in an irregular situation, move, live and work in precarious circumstances, disproportionately vulnerable to discrimination, exploitation and marginalization with reduced means of redress. At all stages of migration, the vulnerability of migrants to abuse, exploitation and exclusion is exacerbated by the lack of regular migration status. This hampers integration within host communities, social inclusion and development at large.

Under international law, States have the right to regulate the admission and stay of foreigners in their territory. This discretionary power of States is not absolute and must be exercised with due respect for obligations arising from international human rights law, refugee law, and other international legal instruments.

Pathways for regular migration can be an effective tool to ensure the protection of migrants in vulnerable situations who may not qualify as refugee, yet who leave their countries of origin under a certain degree of compulsion or face human rights violations during the journey or in countries of destination. Ensuring regular entry and stay is often effective in facilitating migrants' access to human rights and integration into the community of the destination country. This contributes both to human development and countries development. Providing migrants with access to entry and residence through regular channels also benefit receiving States, strengthening their capacity to identify who enters, transits through and remains in the territory and therefore to put in place appropriate responses.

Safe, accessible and adequate channels for regular migration are an essential component of effective migration governance. Root causes of precarious movement can be difficult to address in the short term and people often continue to be compelled to cross borders despite not having regular migration options.

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Returns to countries of origin may not be feasible or sustainable and policies that focus only on returns risk generating cycles of repeated migration in ever more precarious conditions. Although regular pathways for migrants in vulnerable situations have emerged in recent years, they are not sufficient to respond to the rising number of migrants who need protection of their human rights. Therefore, expanding options for safe and regular migration can enhance the well-being and safety of migrants in vulnerable situations and benefit origin and destination societies.

## Scope and purpose

Regular migration pathways are legislative and administrative mechanisms that provide for regular travel, admission and/or stay in the territory of a State. Pathways for regular migration include a broad range of measures that States can put in place to regulate entry and stay in their territory, such as those related to labour mobility, family reunification, free movement of persons, humanitarian considerations and education. While appreciating the complexity of migration movements and therefore the variety of measures that States undertake to regulate such movements, this background paper has a narrower scope and focuses on regular pathways for migrants who are compelled to leave situations of crisis and vulnerability,<sup>2</sup> in particular:

- a) *Migrants who leave their country of origin because of disasters caused by natural hazards, the adverse effect of climate change and environmental degradation, separation from family, and lack of access to economic and social rights, including adequate food, healthcare, decent work, land, and water. These drivers are characterized by a certain degree of compulsion, which increase migrants' reliance on precarious movement and reduce their ability to assert their rights and seek redress.*
- b) *Migrants who face vulnerable situations during their journey and at destination. While in transit, for instance, many migrants find themselves in irregular and precarious conditions, unable to access justice and at risk of a range of human rights violations and abuses, including sexual and gender-based violence and treatment that may amount to torture and other cruel, inhuman or degrading treatment or punishment. Migrants can also transit through countries that are experiencing a crisis or a conflict.*
- c) *Migrants who are at heightened risk because of their identity or personal circumstances. For example, pregnant or nursing women, victims of sexual and gender-based violence, persons in poor health (including those living with HIV), persons with disabilities, older persons, children (including unaccompanied or separated children) and persons who are discriminated against on any ground can be particularly at risk.*

Specific attention is paid to “mixed movement”, a term used to describe the cross-border movement of people who have a variety of protection profiles, reasons for moving and needs but who move along the same routes, use the same forms of transport or means of travel, often travel irregularly and face similar challenges and risks.<sup>3</sup>

This background paper focuses on regular pathways for international migrants who are in vulnerable situations and not on refugees (that is, people who would meet international, regional, or domestic refugee criteria, whether or not they have been formally accorded refugee status).

Within this frame, two elements need to be clarified. Firstly, the background paper includes references to travel, entry and/or stay arrangements that States can adopt as a response to humanitarian crises or mixed movements, in order to ensure the regular entry and stay of migrants in vulnerable situations.

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<sup>2</sup> Global Migration Group, Principles and guidelines, supported by practical guidance, on the human rights protection of migrants in vulnerable situations, p. 5-7

<sup>3</sup> Global Migration Group, Principles and guidelines, supported by practical guidance, on the human rights protection of migrants in vulnerable situations, p. 15

The implication of their use for refugees are not analysed here.<sup>4</sup> Secondly, the roundtable does not touch upon the different issue of refugee resettlement and “complementary pathways” for refugees, which are avenues by which refugees are admitted to third-countries. They complement the protection afforded to refugees under the international protection regime and serve as an important expression of global solidarity, international cooperation and more equitable responsibility sharing to meet the protection needs of refugees and support them to achieve durable solutions.

This background paper draws attention to the variety of mechanisms that States are using to ensure regular travel, entry and/or stay for migrants in vulnerable situations.

Its objective is three-fold:

- 1) Frame the issue and define its scope
- 2) Conceptualize and illustrate the different types of pathways for migrants in vulnerable situations
- 3) Share examples and experiences

### **Grounds for regular admission and stay of migrants in vulnerable situations**

Human rights and “humanitarian” grounds can enable migrants in vulnerable situations, who may not qualify for refugee protection, to access a safe and regular migration pathway.<sup>5</sup>

While there is no common understanding of what “humanitarian” means in this context, human rights and humanitarian-based provisions can establish a ground of admission and stay and be meant:

- to give effect to international human rights obligations and principles, such as the right to private and family life, the right to family unity, the principle of the best interests of the child, the right to rehabilitation for torture victims or the right to health; or
- to exercise the discretionary power of States in immigration matters.

Human rights and so-called humanitarian grounds for the entry and stay of migrants in vulnerable situations include considerations of, inter alia: the risk of human rights violations in case of return to the country of origin (other than the sorts of violations which would give rise to refugee status); occurrence of disasters caused by natural hazards in the country of origin; health status and unavailability and/or inaccessibility of the right to health in the country of origin; protection of the right to private and family life in the country of destination; the right to family unity; the right to torture rehabilitation; best interests of the child; gender based violence and labour exploitation in the destination country; ties developed in the destination country; where migrants have been smuggled, they are witnesses or victims of trafficking, or victims of other crimes, in some cases including when they are unwilling or unable to cooperate with authorities because of safety or humanitarian considerations. Humanitarian and human rights grounds can be thus associated with situations that are present in the country of origin, during transit or in the country of destination, and the personal circumstances of the individual migrant need to be taken into consideration.

- In [Austria](#), a residence permit is granted if a person cannot be returned because the removal would be in violation of the right to private and family life within the meaning of Article 8 of the European Convention of Human Rights.<sup>6</sup>

<sup>4</sup> For more guidance, see UNHCR, Guidelines on Temporary Protection or Stay Arrangements, at:

<https://www.unhcr.org/protection/expert/5304b71c9/guidelines-temporary-protection-stay-arrangements.html>

<sup>5</sup> OHCHR-DLA Piper, Admission and stay based on human rights and humanitarian grounds. A mapping of national practice, December 2018, at: [https://www.ohchr.org/Documents/Issues/Migration/OHCHR\\_DLA\\_Piper\\_Study.pdf](https://www.ohchr.org/Documents/Issues/Migration/OHCHR_DLA_Piper_Study.pdf)

<sup>6</sup> Art. 55, Asylum Act 2005. See also, OHCHR-DLA Piper, Admission and stay based on human rights and humanitarian grounds. A mapping of national practice, December 2018, p. 8-9

- The [Mexican legislation](#) provides for a humanitarian residence permit for migrants who are victims or witnesses of a crime committed in the national territory.<sup>7</sup>

## Types of pathways

Based on the grounds described above, States can put in place a variety of pathways for the regular travel, admission and/or stay of migrants in vulnerable situations. This section illustrates some of the different types of pathways that States can establish.

### a) Before travel, during transit or at destination

Pathways for regular travel, admission and/or stay can be made available to migrants in vulnerable situations before their travel, during transit along migratory routes or at destination.

Access to regular pathways can be granted by a destination State to migrants in vulnerable situations who are in their country of origin or in transit, for instance in the form of humanitarian visas. These visas allow vulnerable migrants to travel to the destination State in a regular and safe manner. In this way, the risk of human rights violations in the context of transit and smuggling, such as arbitrary detention and trafficking, decreases significantly. In case of crisis and large movements, measures other than visas can be effective in facilitating regular travel. These include waivers or exceptions to exit, stay, and entry requirements; timely issuance of laissez-passer and replacement of other identity and travel documents; the deployment of consular assistance teams to borders, airports, or other transit points; and the development of border governance measures to assist, identify and refer migrants in vulnerable situations.<sup>8</sup>

In 2019, Italy issued a visa for humanitarian reasons (art. 25 Regulation (EC) No 810/2009) to a Nigerian unaccompanied boy stranded in Libya, for reasons related to his right to health, family life and the best interests of the child.<sup>9</sup>

Transit permits that are issued by States to regularize the movement of migrants through their territory can also be effective mechanisms for the protection of migrants in transit. Regular transit along migratory routes reduces migrants' exposure to human rights violations and abuses and increase their trust in the authorities.<sup>10</sup>

In other cases, pathways for regular migration are available to migrants in vulnerable situations only upon arrival at destination.

### b) Regular or exceptional migration categories

In order to ensure access to regular entry and stay to migrants in vulnerable situations, States may decide to facilitate their access to already existing regular migration categories, for instance by waiving certain requirements or application fees. In addition, States can create new pathways for migration, on ad hoc or permanent basis, which are specifically targeting migrants in vulnerable situations.

- [Spain, New Zealand and Australia](#) have expanded the use of pre-existing temporary work quotas to target migrants from disaster-affected areas and areas facing adverse impacts of climate change.<sup>11</sup>

<sup>7</sup> Art. 52(V)(a), Migration Law 2011

<sup>8</sup> Guidelines to Protect Migrants in Countries Experiencing Conflict or Natural Disaster (MICIC), Guideline 10, at [https://micicinitiative.iom.int/sites/default/files/single\\_guideline\\_10.pdf](https://micicinitiative.iom.int/sites/default/files/single_guideline_10.pdf)

<sup>9</sup> Ordinary Court of Rome, Human Rights and Immigration Section, 21 February 2019

<sup>10</sup> Claire Healy, ICMPPD Policy Brief, How to Prevent Human Trafficking among People Travelling along Migration Routes to Europe, July 2019

<sup>11</sup> Agenda for the protection of cross-border displaced persons in the context of disasters and climate change, Volume II, p. 43, at <https://disasterdisplacement.org/wp-content/uploads/2015/02/PROTECTION-AGENDA-VOLUME-2.pdf>

- In [Argentina](#), temporary residence for humanitarian reasons can be granted to migrants when there is a presumption of risk of death in the country of origin due to the lack of medical treatment.<sup>12</sup>

Family reunification is one of the most important examples of regular migration categories. While some migrants, such as those high-skilled workers who move out of free choice, usually have options to migrate with their family or swiftly reunite with them,<sup>13</sup> many others have to meet more stringent and restrictive conditions and face long waiting periods and bureaucratic hurdles. Long periods of separation do not in general deter migration but rather encourage decisions to opt for dangerous and irregular routes.<sup>14</sup> Through broader and more flexible access to family reunification in terms of regular travel, entry and residence, migrants in vulnerable situations can safely migrate out of countries of origin and contexts of crises. Pathways for regular admission and travel can enable families to move together and avoid family separation. Moreover, States can enhance access of migrants in vulnerable situations to family reunification by reducing practical and legal barriers. This can be done by reducing fees; introducing realistic application deadline, reasonable requirements related to income, accommodation and health insurance, and a broader definition of “family”; ensuring access to comprehensive information and logistical facilitation; and reducing long processing time, with possibility of expedite procedures.

Labor migration is another regular migration category that can be used to admit migrants in vulnerable situations. For instance, States have expanded the use of pre-existing temporary work quotas to target migrants from disaster-affected areas and areas facing adverse impacts of climate change.<sup>15</sup> States can enhance access of migrants in vulnerable situations to labour migration pathways by reducing practical and legal barriers, such as those related to the lack of travel documents, proof of work experience, skills assessment, education recognition and bank accounts.

At destination, pathways that are specifically targeting migrants in vulnerable situations may be envisaged either as migration procedures to which migrants can apply for, or as a residual and final step in a single asylum procedure, after the refugee claim has been rejected.

- In [Spain](#), the migration law (Aliens Act) foresees the possibility to request a temporary residence permit for humanitarian reasons.<sup>16</sup>
- In [Finland](#), a residence permit on compassionate grounds may be granted as a residual and final step of the asylum procedure, after the refugee claim under international and regional refugee law has been rejected. It can be granted for reasons related to medical conditions, ties to Finland or other individual compassionate grounds, particularly in consideration of the circumstances a person would face in the home country or the vulnerable situation of the individual.<sup>17</sup>

c) Upon arrival or after irregular stay

Pathways for the regular stay of migrants in vulnerable situations can be available in the context of admission or after a certain period of irregular stay. States have also opted for large “regularization” programmes, which stand for a range of legislative and administrative measures to grant regular status to migrants after a certain period of irregular stay. Migrants who are in vulnerable situations because of

<sup>12</sup> Art. 61, Law 25.871. See also: OHCHR-DLA Piper, Admission and stay based on human rights and humanitarian grounds. A mapping of national practice, December 2018, p. 6-7

<sup>13</sup> UNICEF 2018: Family Unity in the Context of Migration. Working paper, p. 4, at <https://www.unicef.org/media/58341/file/Family%20unity%20issue%20brief.pdf>

<sup>14</sup> UNICEF 2018: Family Unity in the Context of Migration. Working paper, p. 3

<sup>15</sup> Agenda For The Protection Of Cross-Border Displaced Persons In The Context Of Disasters And Climate Change, Volume II, p. 42

<sup>16</sup> OHCHR-DLA Piper, Admission and stay based on human rights and humanitarian grounds. A mapping of national practice, December 2018, p. 22-23

<sup>17</sup> OHCHR-DLA Piper, Admission and stay based on human rights and humanitarian grounds. A mapping of national practice, December 2018, p. 11-13

the reasons for leaving the country of origin or the violations and abuses suffered en route may benefit from these regularization schemes. However, a more timely response available upon arrival can limit the risk to be subjected to further violations and abuses at destination.

In 2014 and 2017, [Morocco](#) implemented two regularization campaigns, which benefitted, among others, migrants with serious illnesses, women and their children, and unaccompanied children.<sup>18</sup>

d) Country or individual criteria

Pathways for regular migration can be targeted towards citizens of a particular nationality, in response to the situations faced by their country. Otherwise, admission and stay may be granted in the context of an individualized assessment, according to specific criteria – which may aim to provide regular pathways to a broader range of people than those who would qualify as refugees - and may be granted regardless of nationality.

- In 2017, [Argentina](#) granted access to temporary residence and suspended the deportation of Haitians, due to the situation in Haiti, in particular the repeated natural disasters.<sup>19</sup>
- The [Italian legislation](#) provides for a temporary residence permit in case of exceptional natural disaster in the country of origin, where return under conditions of safety would be impossible.<sup>20</sup>

## Policy frameworks and discussions

a) The Global Compact for Safe, Regular and Orderly Migration

The Global Compact for Safe, Regular and Orderly Migration, endorsed by 152 UN Member States on 19 December 2018, suggests a range of actions that States can take to enhance availability and flexibility of pathways for regular migration (Objective 5) and address and reduce vulnerabilities in migration (Objective 7).

States can take actions to adapt options and pathways for regular migration “in a manner that upholds the right to family life and responds to the needs of migrant in a situation of vulnerability” (Objective 5). Policy options may include the following:

- Develop flexible, rights-based and gender-responsive labour mobility schemes for migrants, in accordance with local and national labour market needs and skills supply at all skills levels, including temporary, seasonal, circular, and fast-track programmes in areas of labour shortages, by providing flexible, convertible and non-discriminatory visa and permit options, such as for permanent and temporary work, multiple-entry study, business, visit, investment and entrepreneurship (Objective 5d)
- Develop or build on existing national and regional practices for admission and stay of appropriate duration based on compassionate, humanitarian or other considerations for migrants compelled to leave their countries of origin, due to sudden-onset natural disasters and other precarious situations, such as by providing humanitarian visas, private sponsorships, access to education for children, and temporary work permits, while adaptation in or return to their country of origin is not possible (Objective 5g)

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<sup>18</sup> OHCHR-DLA Piper, Admission and stay based on human rights and humanitarian grounds. A mapping of national practice, December 2018, p. 14-15

<sup>19</sup> <https://www.boletinoficial.gob.ar/detalleAviso/primera/160342/20170320> . See also: OHCHR-DLA Piper, Admission and stay based on human rights and humanitarian grounds. A mapping of national practice, December 2018, p. 6-7

<sup>20</sup> Art. 20 *bis* TU 286/98.

- Cooperate to identify, develop and strengthen solutions for migrants compelled to leave their countries of origin due to slow-onset natural disasters, the adverse effects of climate change, and environmental degradation, , including by devising planned relocation and visa options, in cases where adaptation in or return to their country of origin is not possible (Objective 5h)
- Facilitate access to procedures for family reunification for migrants at all skills levels through appropriate measures that promote the realization of the right to family life and the best interests of the child, including by reviewing and revising applicable requirements, such as on income, language proficiency, length of stay, work authorization, and access to social security and services (Objective 5i)

b) The Global Forum for Migration and Development

The Global Forum for Migration and Development has looked at effective practices to ensure regular admission and stay for a) migrants in countries experiencing crisis and b) cross-border displaced persons in the context of natural disaster and the effects of climate change (GFMD Bangladesh 2016, Roundtable 3.1 “Migrants in situations of crisis”).

c) The Nansen Initiative Protection Agenda

The Agenda for the Protection of Cross-Border Displaced Persons in the Context of Disasters and Climate Change, endorsed by more than 109 States in 2015, presents a comprehensive approach on how to both prevent and address disaster displacement. The Protection Agenda conceptualizes and compiles a broad set of effective practices and policy options that can be used by States and other actors to ensure more effective responses to cross-border disaster-displacement, including humanitarian protection mechanisms for admission and stay. These humanitarian protection measures may be based on regular immigration law, exceptional immigration categories, or provisions related to the protection of refugees or similar norms of international human rights law.

### **Challenges in the design and implementation of regular pathways**

States that introduce and implement pathways for the regular travel, admission and/or stay of migrants in vulnerable situations may be confronted with some challenges that require to be identified, analysed and addressed.

At the stage of the *design* of new mechanisms for the regular entry and/or stay of migrants in vulnerable situations, challenges may include:

- Lack of detailed information on good practices
- Limited policy guidance available at the international and regional level
- Limited consolidated information on jurisprudential developments at the national, regional and international level, which can guide the establishment of criteria for individual assessment
- Lack of coordination between different parts of national migration systems
- Lack of mechanisms for adequate coordination and dialogue with relevant stakeholders, including civil society
- Authority in charge of implementation need to be identified or created

In the context of the *implementation* of pathways for migrants in vulnerable situations, the following situations may arise:

- Depending on the pathway, mechanisms of identification and referral of migrants in vulnerable situations may need to be established or adapted
- Limited State’s capability to process applications and issue documents
- Authorities in charge of the procedure need to be trained, including on mainstreaming gender-responsive and child-sensitive approaches in implementation

- Relevant authorities, civil society actors and migrants themselves have to be provided with accurate information in a language they understand and in formats they can access. Migrants may require legal advice
- Challenges related to the transition from ad hoc or temporary responses to institutionalised and long term pathways may arise



## Annex

### Examples of practice shared by States

#### Mexico

The Law on Refugees, Complementary Protection and Political Asylum incorporates the figure of “complementary protection”. A person who does not comply with the criteria defined by such law to be recognized as a refugee, can be granted complementary protection to prevent their return to a country where their life could be in danger. Beneficiaries of complementary protection have a documented stay in the country, freedom of movement, access to gainful employment, as well as basic social rights.

The Mexican Migration Law establishes that a “Visitor status under humanitarian grounds” can be granted to:

- Victims or witnesses of a crime in the Mexican territory
- Unaccompanied migrant girls, boys or adolescents
- Asylum seekers, refugees or beneficiaries of complementary protection.

The visitor status under humanitarian grounds can also be granted to foreigners who do not meet the above criteria, when there is a humanitarian or public interest that requires their entry or regularization in Mexico. This status entails access to gainful employment.

In 2019, Mexico began the regularization of migrants who entered Mexico in 2017, after they had been forcibly displaced from Laguna Larga, Guatemala. Permanent Residence Cards (TRP) for family reunification and Business Cards under Humanitarian Grounds (TVRH) were delivered.

In 2019, Mexico granted a one-year temporary stay to migrants entering its territory in the context of large movements. This permit allows migrants to transit through the Mexican territory and to obtain a Population Registration Code (CURP) for foreigners, which is a form of identification that facilitates access to employment and public services, including health and education.

#### Pakistan

In line with Pakistan’s policy on ‘Voluntary repatriation and management of Afghan nationals’, the Government of Pakistan registered around 880,000 undocumented Afghans in 2017-2018. This registration aimed to provide better protection to the undocumented Afghan nationals living in Pakistan, enable them to safely return to their country of origin, obtain legal travel documents, benefit from the visa policy of Pakistan towards Afghan nationals and contribute to the development of their country of origin as well as destination as regular migrants.

#### Switzerland

The Papyrus Project, which officially began in February 2017, is a project of the Canton of Geneva, supported by the Confederation. The project aims to initiate a process of regularisation of undocumented migrants in Geneva and to address the economic sectors affected by undeclared work and unfair remuneration. Operation Papyrus was developed and implemented with the active participation of Geneva associations and trade unions, which advised and supported migrants in the preparation of their regularization file. The operation was guided by the public interest, which is reflected in its three components: 1) a process to regularise the residence conditions of well-integrated undocumented migrants, 2) a monitoring system (compliance with working conditions, compliance with wage obligations, payment of social security) and a system to address economic sectors particularly affected by undeclared work and unfair remuneration (in particular the domestic economy sector) as well as 3) an integration system (domestic economy job exchange, information campaign for employers).

The process of regularising the conditions of residence was carried out in accordance with the following criteria:

- continuous stay of 5 years for families with school children or 10 years for the other categories;
- successful integration;
- no criminal conviction;
- economic independence.

The University of Geneva has been mandated by the Cantonal State Council to carry out an evaluation of the project, the results of which are expected in autumn 2019.

## Turkey

In Turkey, migration law (Foreigners and International Protection Law) provides for humanitarian residence permit for migrants in vulnerable situations due to extraordinary circumstances, best interests of the child, inaccessibility of right to health in the country of origin while undergoing treatment for a life threatening health condition, torture rehabilitation and the risk of human rights violations (death penalty, torture, inhuman treatment or punishment) in case of return to the country of origin.

## **Examples of practice shared by international organizations and others**

### ICMPD

On 19-20 September 2019, the Government of Ecuador, the GFMD 2019 Chair, and the EU-ICMPD Joint Initiative “Migration EU eXpertise” (MIEUX)<sup>21</sup> and in partnership with UNDP organized, in Quito, the GFMD regional workshop “Providing regular pathways from crisis to safety” in Latin America and the Caribbean.<sup>22</sup> The objective of this workshop was to contribute to the debate around the theme of the roundtable 1.1 of the Quito Summit, and to bring forward the global debate on migration and development. Among the numerous practices shared during the discussion, the following focused on legislative and administrative mechanisms for regular travel, admission and/or stay in the territory of a State.

- Argentina, Brazil and Uruguay decided to unilaterally extend MERCOSUR to Venezuelan citizens
- Ecuador extended UNASUR visas to Venezuelan citizens
- Colombia decided to grant citizenship to 25.000 children born to Venezuelan parents in its territory despite its jus sanguinis citizenship law
- Argentina, Bolivia, Brazil, Cuba, Ecuador, Guatemala, Panama, Peru and Venezuela grant complementary protection to victims of forced displacement and climate change in line with the Brazil Declaration (2014)
- Regularisation mechanisms through work contracts, e.g. in the case of Colombia

### IOM

IOM’s Family Assistance Programme (FAP) is funded by the German Federal Foreign Office. The central aim of the programme is to support migrant families in vulnerable situations to reunite with their relatives in Germany. The programme facilitates access to family reunification, by assisting migrants with the visa application process. With support centres in ten countries (Turkey, Iraq, Afghanistan, Jordan, Lebanon, Egypt, Sudan, Ethiopia, Kenya and Germany), FAP offers both in-person and remote assistance to a high volume of vulnerable migrants by providing them with timely, trusted and accurate

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<sup>21</sup> Funded by the European Commission (Directorate-General for International Cooperation and Development)

<sup>22</sup> For more details, including the report of the workshop, please access <https://gfmd.org/docs/ecuador-2019>

information and visa-related support services in their native language. Among others, these services include assistance with visa application form-filling and application completeness checks, facilitation of appointment scheduling, biometrics enrolment, conducting of health assessments, facilitation of DNA testing, escorting of unaccompanied minors and cases with serious medical needs, and delivery of integration classes and distribution of integration handbooks. Since 2016, FAP has assisted over 334,000 beneficiaries. Main Objectives of the Programme

- To dissuade families from seeking unsafe and irregular channels to join their recognised refugee sponsor and/or subsidiary protection status sponsor in Germany;
- To protect families from misinformation and exploitation by unscrupulous visa brokers and smugglers;
- To empower families with information and visa support services in their native language;
- To facilitate efficient and timely visa processing by German Consular Offices;
- To better prepare families for their arrival and integration into German society.

## PDD

Volume II of the Agenda for the Protection of Cross-Border Displaced Persons in the Context of Disasters and Climate Change provides for examples of humanitarian protection mechanisms for the admission and stay of cross-border disaster-displaced persons. It compiles a broad set of humanitarian protection measures, which may be based on regular immigration law, regional or bilateral agreements on the free movement of persons, exceptional immigration categories, or provisions related to the protection of refugees or similar norms of international human rights law.<sup>23</sup>

## OHCHR

The Office of the High Commissioner for Human Rights (OHCHR), in collaboration with DLA Piper Law Firm and civil society organisations, has undertaken a pilot mapping of national forms of admission and stay which are based on human rights or humanitarian grounds.

The research addresses three main questions: a) what are the human rights and humanitarian *grounds* of admission and stay that exist at the national level? b) what is the *content* of the protection granted? Does this protection only imply a suspension of removal or would it also involve the grant of residence? What are the rights attached to such protection? c) what *procedures* have States put in place to assess these claims based on human rights and humanitarian grounds?

The initial research was conducted in some 27 countries and the 10 country summaries included in the publication represent a sample of those countries in which examples of relevant practice were found (Argentina, Austria, Brazil, Finland, Hong Kong, Morocco, The Netherlands, New Zealand, Portugal, and Spain).<sup>24</sup> The main findings of the pilot mapping include the following:

1. Human rights and humanitarian considerations are grounds for the admission and stay of migrants in several countries around the world.
2. International human rights law plays a key role, as it establishes obligations that prevent removal and contribute to the interpretation of the scope and content of humanitarian grounds.
3. Differential treatment in relation to access to rights and services based on the grounds under which protection or residence is granted, may amount to discrimination and should be avoided.
4. When specific human rights or humanitarian considerations are considered as a ground of non-removal, it should be possible for the migrant to claim protection and residence on these grounds through a rules-based and established procedure.

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<sup>23</sup> Agenda for the Protection of Cross-Border Displaced Persons in the Context of Disasters and Climate Change, Volume II, p. 42-49, at:

<https://disasterdisplacement.org/wp-content/uploads/2015/02/PROTECTION-AGENDA-VOLUME-2.pdf>

<sup>24</sup> OHCHR-DLA Piper, Admission and stay based on human rights and humanitarian grounds. A mapping of national practice, December 2018, at: [https://www.ohchr.org/Documents/Issues/Migration/OHCHR\\_DLA\\_Piper\\_Study.pdf](https://www.ohchr.org/Documents/Issues/Migration/OHCHR_DLA_Piper_Study.pdf)