

# Third country nationals' definition

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## Key points

- In situations in which two States are concerned, a third country national (TCN) is any person who is not a national of either State; or, in the context of regional organizations, nationals of States who are not member States of such organization
- Some third country nationals may require refugee protection, where they cannot return to their country of origin, which is unable or unwilling to protect them from persecution or other threats to life, freedom or physical integrity arising from armed conflict, serious public disorder, or different situations of violence. Other third country nationals, while not in need of international protection may still may not be able to return to their countries of origin (owing to certain vulnerability factors or other grounds, including humanitarian considerations)
- UNHCR should participate in inter-agency mechanisms to ensure the protection needs of people with and for whom UNHCR works are met
- In mixed movements, distinguish other TCNs from asylum-seekers, refugees, stateless persons and refer them to the appropriate national entities and other service providers, unless they require refugee protection
- In some situations, third country nationals may find themselves stranded in the countries in which they reside (see also the entry Migrants in Countries in Crisis)

## 1. Overview

In situations in which two States are concerned, a 'third country national' (TCN) is a person who is not a national of either State; or, in the context of regional organizations (e.g. the European Union), nationals of States who are not Member States of such organization.

This entry aims to address specifically the situation of TCNs who are not refugees or asylum-seekers, but who may travel with refugees and asylum-seekers, including in the context of mixed

movements. To ensure respect for refugee protection principles as well as the human rights that apply to all, it is important to understand the distinctions between these categories.

Further, in coordinating responses to refugee crises, UNHCR has also used TCNs as a generic term to qualify migrants being compelled to leave their country of residence, being affected by conflict or disaster, as part of a mass influx, mainly consisting of refugees.

In times of a sudden emergency (e.g. conflict or disaster) in a country, non-citizens such as migrants and other TCNs may face particular difficulties and may, as a result, not be able to leave the country of residence.

In other circumstances (distinct from situations of emergency, migrants who cross international borders, for work or other purposes, may become stranded for various reasons. They may lose their documents, be deported to a third country, lack the resources to return home, or face other problems. (See also the [entry on Migrants](#)).

In particular, migrants may find themselves in [vulnerable situations](#) requiring protection and assistance at various points during their journey. Their needs must be identified in coordination with relevant partners and addressed in accordance with international standards.

## 2. Relevance for emergency operations

TCNs are not ordinarily people with and for whom UNHCR works, unless the TCN in question is in need of international protection or stateless. However, refugees, like TCNs, may also be caught up in crisis or disaster situations in countries to which they have fled and may face similar problems and risks to TCNs residing in such countries.

Also identification of TCNs in emergencies, in particular those with international protection needs or specific vulnerabilities, may be essential to devise appropriate responses and identify the entities that could be responsible for or in a position to address their needs.

## 3. Main guidance

### Protection objectives

- To ensure that refugees and asylum-seekers continue to enjoy the rights attached to their legal status, even when a crisis (such as conflict or natural disaster) causes cross-border displacement.
- To ensure that refugees and asylum-seekers are identified in mixed flows and that their protection and assistance needs are assessed and addressed.
- To ensure that the access to asylum procedures of persons in need of international protection is not obstructed or hindered when TCNs seek relief and aid.
- To differentiate TCNs, and ensure they are referred for consular protection and assistance, including evacuation to their countries of origin.

### Underlying principles and standards

- [IOM, Migration Crisis Operational Framework, 2012](#)
- [UNHCR, The return of persons found not to be in need of international protection to their countries of origin: UNHCR's role, 2010](#)
- [UN General Assembly, International Convention on the Protection of the Rights of All Migrant Workers and Members of their families](#)
- [UNHCR, Migrants in Vulnerable Situations](#)
- [UNHCR, Summary Conclusions on International Protection of Persons Fleeing Armed Conflict and other Situations of Violence](#)

## **Protection Risks**

- In large-scale crises, the protection needs of asylum-seekers and refugees may receive insufficient attention, especially when large numbers of TCNs also need assistance.
- Refugees and asylum-seekers who flee their host country following a crisis may be mislabeled as TCNs and repatriated (refouled) to their country of origin.
- Asylum procedures may be overloaded by requests for relief and aid by TCNs who do not qualify for refugee status. Such pressure on fledgling or emergency asylum systems can jeopardise access to asylum for those who need it.
- There may be a heightened risk of statelessness for TCNs – especially where people lacking ties to their country of origin flee after a long presence in the country in crisis.

## **Other risks**

- Refugees, asylum-seekers and TCNs who flee crises will often need immediate material and psycho-social assistance to meet their basic needs. This assistance should be distinguished from the long-term protection to which refugees, asylum-seekers and stateless individuals are entitled.
- When mass crises displace many TCNs, UNHCR may not fulfil its protection mandate if it cannot detect refugees and asylum-seekers in large mixed movements.
- In the absence of established dedicated mechanisms UNHCR may need to develop emergency responses that include TCNs who are not in need of international protection together with its partners.
- Inaccurate profiling of TCNs can cause them to be evacuated to countries with which they have no ties or may risk human rights violation upon return.

## **Key steps**

### **Identification and profiling in a country in crisis.**

Specific and separate approaches are required to assess and address the needs and entitlements of different categories of persons. The entitlements of TCNs are distinct from those of refugees, asylum-seekers and stateless persons.

**Refugees and asylum-seekers who flee a country in crisis that hosted them** do not lose their entitlement to international protection. Evacuations must be monitored to ensure that no refugees or asylum-seekers are involuntarily returned to their countries of origin, because this will amount to refoulement.

**Refugees and asylum-seekers who wish to return to their country of origin** must be granted access to voluntary repatriation procedures, including a determination of the 'voluntariness' of their return.

**Third country nationals.** The majority of TCNs are ordinarily able to demonstrate their nationality. Their identity and profile should nevertheless be assessed with care, to ensure that any protection issues are addressed, and that they are evacuated to the correct country. Some TCNs will have weak links to their country of nationality; some may not possess proof of their nationality and will require further assistance to evacuate. When collecting information on TCNs, consider the risk of statelessness. Processing will largely be undertaken by IOM, other international organizations and NGOs; however, UNHCR will need to remain informed to make sure that people with and for whom UNHCR works are not considered and processed as TCNs or that TCNs with international protection needs are referred to the asylum procedure or UNHCR RSD procedures.

### **Protection in receiving countries**

People with and for whom UNHCR works may be caught during evacuation, and their protection needs may not be assessed. Entry systems must be monitored to ensure that people with and for whom UNHCR works are correctly identified and protected.

**Individuals who are not nationals of the receiving country** may seek international protection. Such individuals must be identified and referred to national asylum procedures or UNHCR's [refugee status determination](#) (RSD) procedures (as appropriate). Monitoring and advocacy may be necessary to ensure that individuals can access national asylum procedures promptly and effectively.

**Refugees and asylum-seekers who have fled a country in crisis** that hosted them should not lose their entitlement to international protection. Their profile and individual circumstances must be verified, and they must be offered appropriate solutions, and protected from return to their countries of origin.

**Most TCNs do not claim to be refugees.** However, they may need immediate assistance and assistance to repatriate to their country of origin. They should be referred to IOM.

### **Assistance**

All civilians fleeing conflict or disaster, regardless of their nationality, status, or background, should be provided with assistance that gives them immediate physical protection and access to essential services (food, shelter, water, sanitation & hygiene, health & nutrition, education).

**UNHCR's contribution**, as part of a joint humanitarian response to a crisis, may be to provide evacuees with NFIs or temporary shelter.

**Other specific needs of TCNs** that relevant stakeholders (such as IOM, ICRC, and WFP) may need to address could include: family tracing; psycho-social needs; protection of unaccompanied and separated children; and protection of other persons with specific vulnerabilities.

## Distinguishing TCNs - Checklist for Managers

- Establish effective systems to identify those with protection needs; such systems need to distinguish TCNs from asylum-seekers, refugees, and stateless persons.
- Make sure that partners who have responsibility for TCNs ascertain their ties to countries of origin. Be attentive to the risk that individuals may become stateless.
- Ensure that profiling and identification procedures mechanisms are in place and lead to a needs-based referral; this may result in referring individuals to partner organisations such as IOM or relevant consulates.
- In collaboration with partner organisations and the Government authorities, meet the basic physical and psycho-social needs of all persons at reception.

## Annexes

[UNHCR, Refugee Protection and Mixed Migration. The ten-point plan in action, 2007](#)

[UNHCR, 'Refugees' and 'Migrants' - Frequently Asked Questions \(FAQs\), 2018](#)

[UNHCR, Protection Policy Paper: The return of persons found not to be in need of international protection to their countries of origin: UNHCR's role, 2010](#)

[UNHCR, Persons in need of international protection, June 2017](#)

[UNHCR, Migrants in vulnerable situations' UNHCR's perspective, 2017](#)

## 4. Main contacts

As first port of call, the UNHCR Dep. Representative (Protection), UNHCR Asst. Rep. (Protection), and/or Snr Protection Officer in the country; or The UNHCR Regional Asst./Dep Rep (Protection) and/or Snr. Regional Protection Officer at the regional office (if applicable); or The Snr. Regional Legal Advisor in the respective UNHCR regional bureau, covering the respective country region,

who in turn will liaise as required with the parent unit at UNHCR DIP.