Third country nationals definition

09 March 2023

Key points

- Third country nationals (TCNs) are individuals who are generally not refugees and who are stranded in a country that is not their own.
- Some third country nationals may require refugee protection, where they are not able to return to their country of origin, which is unable or unwilling to protect them from persecution or other serious harm.
- UNHCR should participate in inter-agency mechanisms to ensure the protection needs of persons of concern to UNHCR are met.
- In mixed migration flows, distinguish other TCNs from asylum-seekers, refugees and stateless persons.

1. Overview

For the purposes of this Entry, a ‘third country national' (TCN) is a person who is stranded in a country that is not his or her own. This may occur as a result of conflict or natural disaster, or deportation from another state. This Entry aims to address specifically the situation of third country nationals who are not refugees, but who may travel in mixed movements with refugees and asylum-seekers. 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.

In times of sudden emergency (conflict, natural disaster), third country nationals in a country may face particular difficulties. They may be unable or unwilling to leave a crisis area, or unable to access humanitarian assistance, or may seek safety in adjacent countries. Such persons have recently been described as ‘migrants in countries in crisis' (MICIC).

In other circumstances (distinct from the situation of MICICs), migrants who cross international borders irregularly, 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).

Such persons are not ordinarily of concern to UNHCR, unless the migrant in question wishes to seek asylum due to a well-founded fear of persecution in his or her country of origin. However, refugees who have fled persecution may also be caught up in crisis situations in countries to which they have fled, and may face similar problems and risks to those of migrants. At the 2013 second High Level Dialogue on Migration and Development, the Secretary General asked the UN to develop a framework on MICIC, and UNHCR was assigned to participate in this task, given its expertise in crisis situations and the potential implications for refugees, alongside IOM and other stakeholders.

2. 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 third country nationals seek relief and aid.
- To differentiate third country nationals, and ensure they are referred for consular protection and assistance, including evacuation to their countries of origin.

Underlying principles and standards

- IOM, Migrants in Countries in Crisis, (MICIC)
- 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, 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 third country nationals also need assistance.
- Refugees and asylum-seekers who flee their host country following a crisis may be
mislabelled as third country nationals and repatriated (refouled) to their country of origin.

- Asylum procedures may be overloaded by requests for relief and aid by third country nationals 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 – 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, third country nationals (and others) who flee crises will often need immediate physical and psycho-social attention 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 third country nationals, UNHCR may not fulfil its protection mandate if it cannot detect refugees and asylum-seekers in large mixed flows.
- In the absence of established mechanisms (until a MICIC concept and framework are in place), UNHCR may need to develop emergency responses that include third country nationals.
- Inaccurate profiling of third country nationals can cause them to be evacuated to countries with which they have no ties.

**Key decision points**

- Establish effective systems to identify those with protection needs; such systems need to distinguish third country nationals from asylum-seekers, refugees, and stateless persons.
- Make sure that partners who have responsibility for third country nationals ascertain their ties to countries of origin. Be attentive to the risk that individuals may become stateless.
- Ensure that profiling and categorization 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, meet the basic physical and psycho-social needs of all persons at reception.

**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 other third country nationals 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 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
Third country nationals. The majority of third country nationals 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 persons of concern to UNHCR are not considered and processed as TCNs.

Protection in receiving countries

Persons of concern may be caught during evacuation, and their protection needs may not be assessed. Entry systems must be monitored to ensure that persons of concern to UNHCR are correctly identified and evaluated.

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 third country nationals 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 for assistance to return to their country of origin.

Assistance

All civilians fleeing conflict, 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, 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.
Key management considerations

- At all stages, including when a response to TCNs is prepared, UNHCR should collaborate with key stakeholders, including relevant State authorities, IOM, other relevant international organizations, NGOs, and the UN country team or Humanitarian country team (UNCT/HCT).
- Sufficient staffing and resources should be in place to fulfil this task and accurately distinguish categories of arrivals.
- Entry systems and referral procedures must be monitored and evaluated to ensure that refugees and asylum-seekers are not considered, or processed as, other TCNs.

Resources and partnerships

Inter-agency cooperation is required to ensure that the assistance and response needs of third country nationals are met. UNHCR should participate in inter-agency mechanisms wherever relevant to ensure that the protection needs of persons of concern to UNHCR are met, and UNHCR's leading mandate role for refugees is recognised. UNHCR works in UNCT with other agencies to provide support to Governments that must assist and protect mixed population groups. Where third country nationals are evacuated to countries of origin, a joint humanitarian response will be required.

Evacuation of third country nationals is primarily a State responsibility, which in some instances is facilitated by IOM. UNHCR may support the process exceptionally as a life-saving measure. A decision to do so requires prior consultation and approval by the concerned bureau, in consultation with the Assistant High Commissioner (Operations).

Annexes

UNHCR, Refugee Protection and Mixed Migration. A ten-point plan in action

IOM, Migrants in Countries in Crisis

3. Links

UNHCR, Mixed migration webpage IOM, Humanitarian Evacuation on the Libyan Border IOM, Migrants caught in Crisis: the IOM experience in Libya UNHCR, Beyond the nexus: UNHCR's evolving perspective on refugee protection and...

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.