

Asylum Capacity Support Group

Note for Discussion

Problem Statement

1. Many states have already established national asylum/refugee status determination (RSD) systems to identify those seeking international protection on their territory. Despite successes, some national asylum systems face challenges, such as managing increased numbers of arrivals, appropriately implementing group based approaches, adapting to situations of mixed movement, or optimizing staffing or other resources. Other states have not yet created a national asylum/RSD systems, while the systems of still other states are in the initial stages of development and require support to increase their effectiveness in line with international standards.
2. The challenges facing national asylum systems are usually caused by capacity gaps at many levels, including at an individual (e.g. staff knowledge, skill and performance), organizational (e.g. regulations, management, and systems) or enabling environment (e.g. policy/legal framework) level. If not effectively addressed through targeted capacity development projects and initiatives, these challenges can result in increased costs, a large number of pending cases and protection gaps for those seeking asylum.

Vision for the Asylum Capacity Support Group

3. UNHCR has long supported the development and improvement of national asylum systems and regional approaches to facilitate consistency. This work is underpinned by UNHCR's supervisory role in the implementation of the 1951 Convention as well as by the understanding that states have the primary role in protecting those seeking international protection on their territory, which requires the development of a system for conducting refugee status determination (RSD).
4. Under the heading "Identifying international protection needs", the Global Compact on Refugees (GCR) mentions an Asylum Capacity Support Group (ACSG) in para. 62 to support states in developing and strengthening **fair, efficient, adaptable national asylum systems that have integrity**¹, as part of their comprehensive refugee response. The ACSG will be **established by UNHCR** and will enhance or be additional to asylum capacity support already provided by UNHCR, and seek to better coordinate existing bilateral or multilateral arrangements. The ACSG will enable UNHCR to carry out its coordinating role for more effective and targeted support to national asylum/RSD systems by multiple stakeholders. It will have due regard to **regional diversity**, and **build on pledges made at the Global Refugee Forum (GRF)**.
5. The ACSG is a vehicle for support to increase the capacity of national asylum systems with a view to ensuring that states have measures in place for the **timely identification** of persons with international protection needs. The ACSG will build on ongoing bilateral and multilateral projects, such as the Quality Assurance Initiatives, and act as framework to structure asylum system capacity development projects in different countries targeting positive improvements

¹ See, also, UNHCR, Non-paper on the Asylum Capacity Support Group, 4 June 2018 available at <https://www.unhcr.org/publications/legal/5b1558104/non-paper-asylum-capacity-support-group-4-june-2018.html>.

in any of the four principles of a robust asylum system: **fairness, efficiency, adaptability and/or integrity.**

6. The ACSG framework will be one which **(1) increases, regularizes and enables the effective coordination of capacity development support to national asylum systems; (2) acts as a flexible, practical mechanism that can bring relevant actors together to effectively match needs with support.** In order to achieve these goals, the ACSG may hold thematic or regional meetings, as appropriate. The Global Compact on Refugees sets out a number of arrangements that facilitate more equitable, sustained and predictable contributions among States and other relevant stakeholders, and that support the search for solutions, including, where appropriate, through assistance to countries of origin.

Areas of focus

7. Throughout 2019, with due regard to geographic diversity, UNHCR will continue to support existing, and identify new, projects/initiatives that address capacity gaps in national asylum systems and improve one or more of the **fairness, efficiency, adaptability or integrity of such systems.** If such projects/initiatives meet the criteria established in the terms of reference, they may be **supported and championed through the ACSG.**
8. To accomplish this process, UNHCR will support states in assessing their asylum/RSD systems, identifying underlying capacity gaps as well as possible good practice solutions. UNHCR will simultaneously identify states or other stakeholders that have expertise in areas relevant to addressing these capacity gaps.
9. UNHCR will then coordinate matching of capacity gaps with offers of capacity support by other stakeholders, on a bilateral or multilateral basis in a targeted manner, including through established national or regional frameworks, where appropriate. Once the ACSG is established, it will seek additional support for such projects/initiatives through GRF pledges. The following paragraphs suggest concrete examples of projects/initiatives that may be pursued for ACSG support under each thematic heading:

Fairness

10. Elements that promote fairness in an asylum system include when there are clearly identified centralized and distinct authorities established by law with a mandate to examine and take decisions on asylum applications in first and second instance (appeal). Fairness is also increased when asylum procedures provide robust due process guarantees and have expert and professional decision makers applying the relevant legal framework.
11. In 2019, the ACSG start-up initiative will seek out projects/initiatives that aim at developing a legal and/or policy framework for a future national asylum system which is compliant with international standards, including plans for infrastructure, staffing and resources. For states that currently do not have an operating appeal authority independent of first instance, the ACSG will support in its establishment or operationalization.
12. The ACSG will also focus on projects that support the fairness of the RSD procedure by supporting institutions to professionalize their RSD workforce by creating permanent civil service positions dedicated solely to RSD or by revising/creating their RSD legal structure to have the decision taken by dedicated RSD staff. Another element of such projects could be to develop standardize staff induction training resources or other training initiatives, for

instance, interviewing techniques, country of origin information research, exclusion or working with interpreters.

13. Finally, the ACSG will identify projects that increase the due process guarantees given to asylum-seekers, such as increased access to legal aid and legal representation during the asylum process.

Efficiency

14. Having an efficient RSD system allows states to quickly identify and assist those with international protection needs, while simultaneously ensuring that persons not in need of international protection are also identified in a timely manner and taken out of the system. An efficient asylum system is also an important element of contingency planning and backlog prevention or reduction. Many elements contribute to efficiency, both at an organizational level (e.g. through efficient human resources and administrative process), an institutional level (e.g. by adopting an individualized decision-maker model or decentralizing decision-making authority through revision of the legal or regulatory framework) and at a case processing level (through appropriate selection and implementation of differentiated case processing methodologies, including group-based protection and **quality simplified and/or accelerated procedures**).
15. In 2019, the ACSG start-up initiative will focus on project/initiatives that help to reform and improve the efficiency of administrative processes in RSD systems including **scheduling, case and file management and caseload profiling**. This includes projects aimed at improving the efficiency of such processes to prevent backlogs from occurring but also on good practices in addressing backlogs by verifying and profiling it, preparing cases for appropriate case-processing modalities and developing efficient scheduling protocols. In some cases, this may involve support to electronic databases, case tracking technology or physical infrastructure for interviewing and filing.
16. Another focus in the area of efficiency will be in supporting the development of appropriate case processing methodologies that reduce the amount of time spent processing one case. This includes **supporting the implementation of group recognition for appropriate caseloads or developing tools for simplified and/or accelerated processing**.

Adaptability

17. Adaptability can be considered as the ability to perform in future conditions and to adjust and innovate in order to meet projected needs or respond to sudden and unforeseen ones. Circumstances change, sometimes quickly, both in relation to numbers of new asylum applicants as well as in relation to characterizes for a particular caseload. It is therefore important that an **asylum/RSD system is adaptable so to minimize the opportunities for backlogs to develop, which can negatively impact the ability of persons of concern to access asylum and its associated rights**. There are several issues that can be looked at in relation to adaptability: clear hierarchy for making policy change, flexible staffing resources, and legal framework that allows for group based or simplified processing methodologies to be operationalized.
18. To increase asylum-system adaptability, the ACSG will support projects and initiatives that support asylum/RSD systems in developing rapid and responsive policy frameworks to allow for case processing methodology shifts, such as group recognition or simplified RSD for appropriate caseloads.

19. The ACSG may also target multi-stakeholder projects that support emergency staffing resources, such as standardized training packages for new workers and interpreters or pre-cleared candidates for swift emergency deployments in specialty areas.

Integrity

20. The concept of integrity includes the transparency and propriety of the institution, process, the decision, and the decision maker. An asylum system with integrity is free from fraud and corruption, provides clear information to asylum seekers and is consistent and standardized in its processes.
21. In 2019, the ACSG start-up initiative will target programs that ensure that the decision making RSD process has clear separation of functions and which have appropriate oversight structures to prevent malfeasance.
22. The ACSG will also target programs which use innovative technology or other means of communication to explain the asylum process to persons of concern and the public more generally, streamline the decision-making process or the provision of legal aid.

Terms of Reference:

23. An outline of **terms of reference** in annex provides an overview of how the ACSG mechanism for coordinating the matching of capacity development support will function. Utilizing the pledging process as part of the first GRF at the end of 2019, states and other entities will be encouraged to support the functioning of the ACSG through making pledges to improve their own national asylum system, or by pledging to support other countries.
24. These basic terms of references will be further expanded in the course of 2019 based on field activities as well as through discussions with relevant stakeholders.

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Asylum Capacity Support Group

Outline of Terms of Reference

- The Asylum Capacity Support Group (ACSG) will act as mechanism for peer to peer support to increase the capacity of national asylum systems with a view to ensuring that states have quality measures in place for the timely identification of persons with international protection needs.
- Coordinated by UNHCR, the ACSG will assist states in using good practice methodologies to identify capacity gaps in their national asylum/Refugee Status Determination (RSD) systems which impact one or more of the system's fairness, efficiency, adaptability and/or integrity. As part of this assessment process, states will indicate which steps they would take to address these capacity gaps as well as what type of technical expertise or other assistance they would seek from the ACSG.
- The ACSG will be the mechanism through which requests for support will be matched with corresponding offers of support from states and other stakeholders with relevant expertise and resources, thus increasing, regularizing and optimizing the coordination of capacity development support to national asylum systems. States with relevant expertise and resources will be encouraged to respond to requests for support by making pledges and/or commitments at the Global Refugee Forums and at periodic ACSG meetings.
- The ACSG will not replace other mechanisms for bilateral or multilateral support to states in capacitating national asylums systems, such as the Quality Assurance Initiatives or pre-existing agreements. Where such initiatives involve support to states, they may be included within the ACSG's framework where appropriate or be complementary to it. The ACSG, though, will seek to ensure coordination of efforts in this field for strengthened effectiveness and optimal use of resources.
- After its establishment, the ACSG will hold periodic meetings on situations or thematic issues relating to national asylum/RSD systems, as required.