

Open briefing of the Counter-Terrorism Committee

Denying Safe Haven to those who Finance, Plan, Support or Commit Terrorist Acts, or Provide Safe Havens, and Preventing Terrorists from Abusing the Asylum System, in Conformity with International Law

United Nations Headquarters, New York, 5 April 2017

Summary

I. Context

1. The resolution, adopted by the Security Council on 15 April 2017, calls upon States to take appropriate measures, in conformity with international law, to deny safe haven to those who finance, plan, support or commit terrorist acts, or provide safe havens, and to prevent terrorists from abusing the asylum system. The resolution also calls upon States to take appropriate measures, in conformity with international law, to ensure that the asylum seeker has not planned, facilitated or participated in terrorist acts.

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A. *Challenges*

14. Mr. Volker Turk, Assistant High Commissioner for Protection, UNHCR, noted that amid heightened concerns of terrorism, there was a tendency to view refugees and asylum seekers from a security perspective. However, favouring security over protection rarely produced the desired results. Policy and operational measures aimed at restricting the movement of asylum seekers and denying access into asylum procedures had instead simply diverted refugee movements from one route to another, aggravating an already precarious situation and creating an environment conducive to human trafficking and migrant smuggling.

B. *Good practices*

15. UNHCR noted that international refugee law provided a framework that addressed concerns related to both security and protection of refugees, which were interrelated objectives. The 1951 Convention Relating to the Status of Refugees identified criteria for determining who was a refugee and therefore entitled to international protection, and excluded persons, who, consistent with article 1 (f) of the Convention, were not considered to be deserving of protection. Equally, it is well established in international law that the prohibition of refoulement was absolute where there was a risk of torture and other cruel, inhuman or degrading treatment and might not be subject to derogation. It was also underscored that refugee status did not protect an individual against criminal prosecution, extradition or expulsion in accordance with due process and pursuant to articles 32 and 33(2) of the Convention.

16. Mr. Yaron Gottlieb, Assistant Director, Office of Legal Affairs, INTERPOL, noted that, in order to mitigate the risk of terrorists abusing the international refugee protection regime, it was imperative that national authorities and UNHCR officials involved in refugee status determination procedures (i) ensure proper registration of asylum seekers and refugees, including biometrics, by border officials trained in relevant aspects of security, refugee, and human rights protection; (ii) check all available INTERPOL databases when reviewing

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emphasized that cooperation between States to share information on the evolving threat and provide assistance in efforts to interdict and prosecute foreign terrorist fighters was paramount. That cooperation could be greatly facilitated by international organizations, including UNODC, INTERPOL and UNHCR, which possessed