The Role of Humanitarian Border Management (HBM) in Border Governance

10th EMN Education seminar on Migration

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Overview

The Role of Humanitarian Border Management (HBM) in Border Governance

- Introduction
- Preparedness – what happens in situations of crisis?
- ***Break***
- Getting the Terminology Right
- Migration and Humanitarian Border Management (HBM)
- Which actors to involve?
- Legal and Policy Frameworks
- Questions and Final Comments

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BORDER AND CRISES

*Source: Linda, **Djibouti** 2015.*

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SOVEREIGNTY AND JURIDICTION

🎯 According to international law, legislation and policy on migration regulating the access to territory through borders, namely entry, stay and residence are under the **exclusive domain of States and their sovereignty.**

🎯 International standards provide general guidelines referring to "migration", especially focused on limiting States jurisdiction to **preserve the non-interference** in other States' territory and jurisdiction.

⚠ The **Responsibility to Protect** (UN, 2005) embodies a political commitment to **end the worst forms of violence and persecution**.

INTERNATIONAL BORDERS

International borders separate the territory or maritime zones between States where they exercise their jurisdiction, including respect and to ensure the rights to all individuals **(art. 2 ICCPR)**

- Borders acquire the exceptional significance of **defining legal implications** and **States' obligations**
- They also outline **international & transnational** migration.

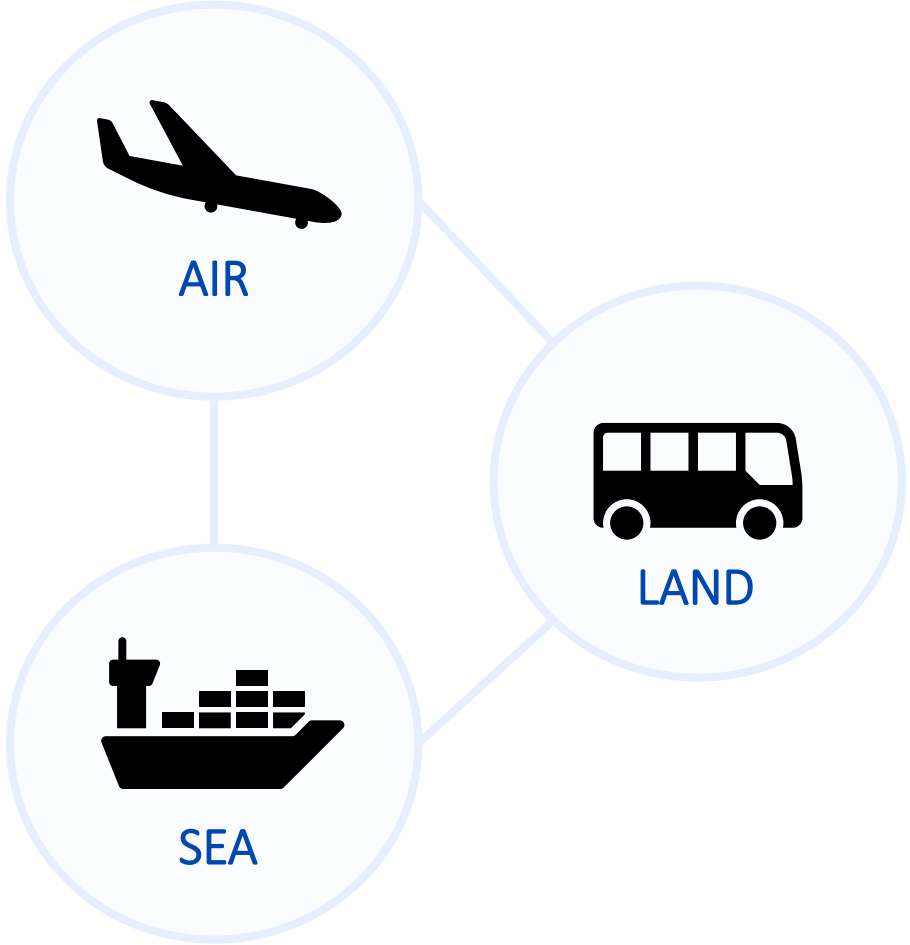
INTERNATIONAL BORDERS

International borders are politically defined boundaries separating territory or maritime zones between political entities and the areas where political entities exercise border governance measures on their territory or extraterritorially.

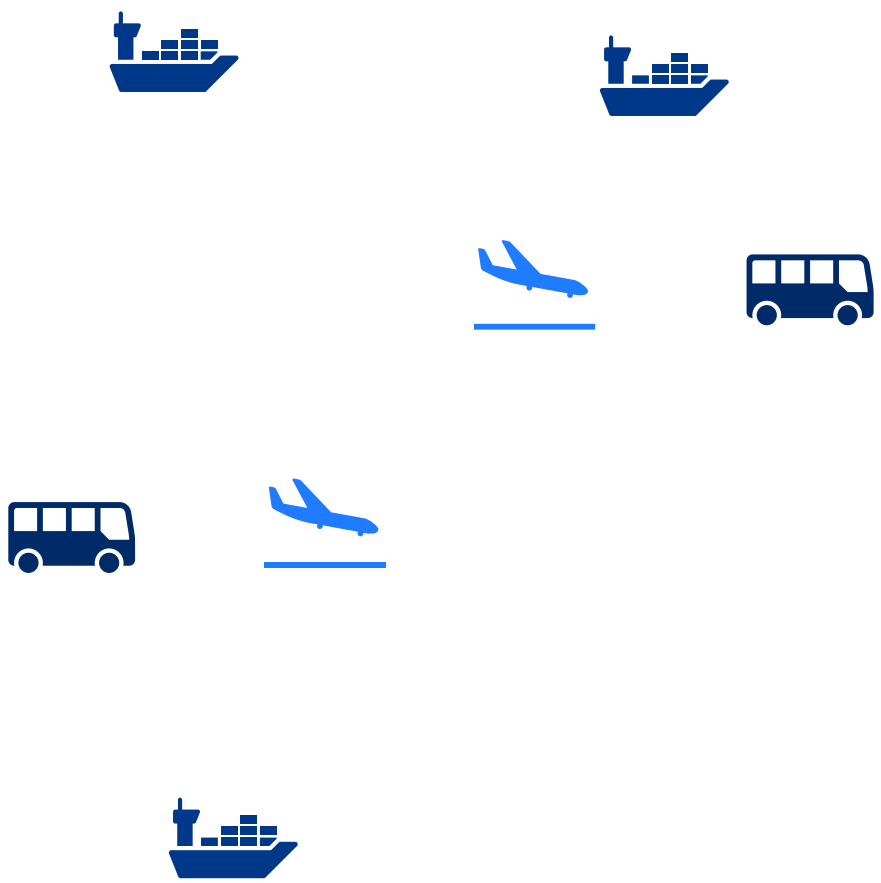
Such areas include border crossing points (airports, land border crossing points, water ports), immigration and transit zones, the "no-man's land" between crossing points of neighbouring countries, as well as embassies and consulates (insofar as visa issuance is concerned).

?

What kind of borders are there in your country (land, air, sea)?



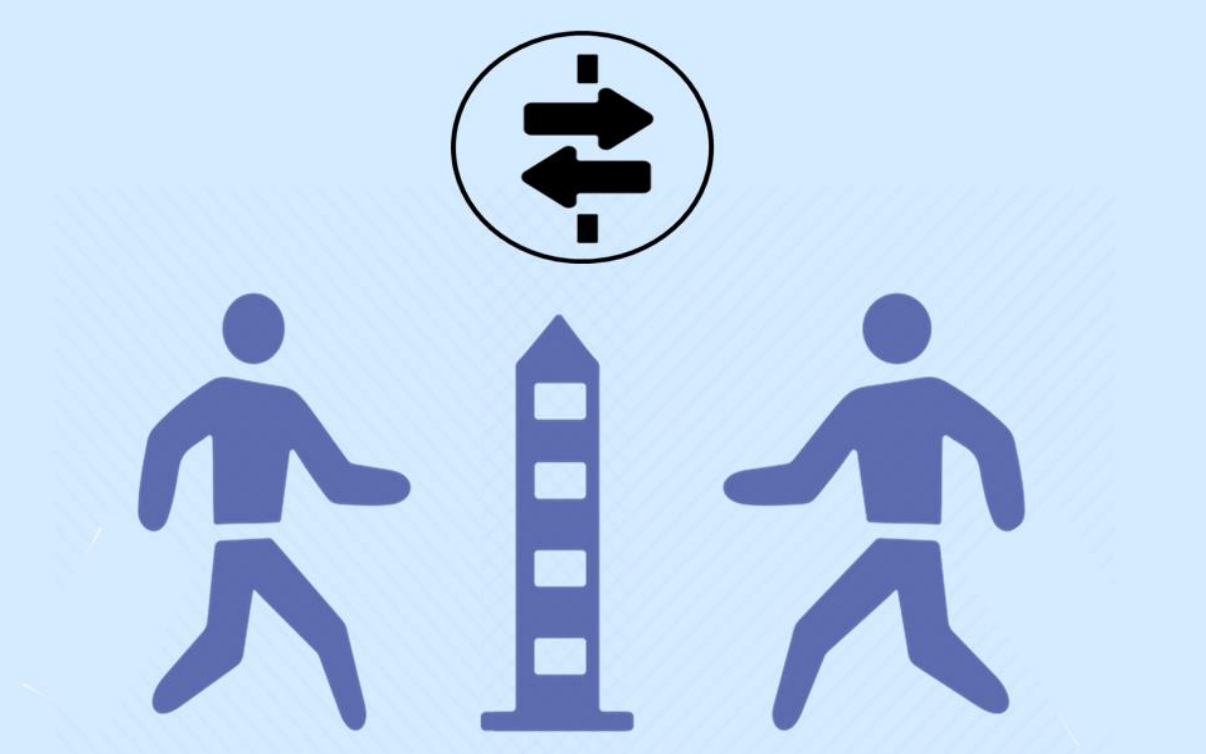
POINTS OF ENTRY



"A passage of international entry or exit of travellers, baggage, cargo, containers, conveyances, goods and postal parcels, as well as agencies and areas providing services to them on entry or exit."

SOURCE: INTERNATIONAL HEALTH REGULATIONS (IHR), 2005.

INFORMAL BORDER CROSSINGS



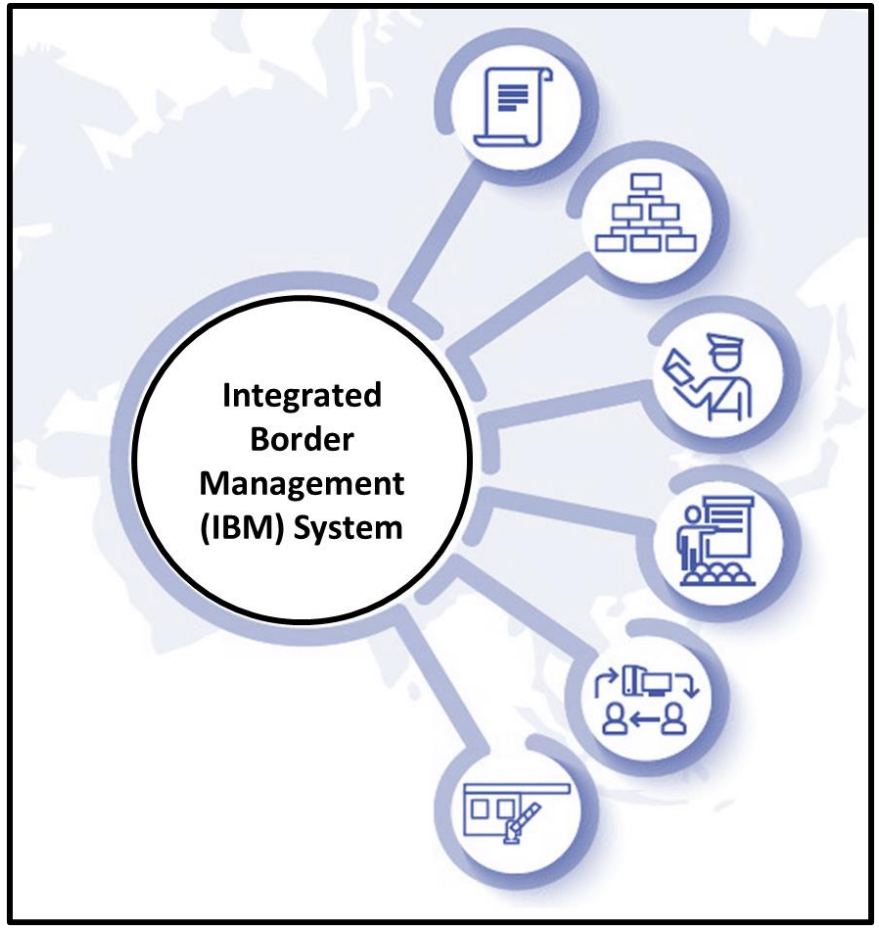
…are also frequent in many countries where borders divide people of the same ethnicity and who speak the same language. They may frequently cross and recross borders in both directions, either to go to a hospital on one side or to markets on the other.

?

Are there informal border crossings in your country? How are they managed?

INTEGRATED BORDER MANAGEMENT SYSTEM

…is a system of national and international coordination and cooperation among all relevant authorities and agencies involved in border security and trade facilitation.



NATIONAL POLICY AND BORDER MANAGEMENT

A national policy framework that respects and is in line with international law needs to set out migration rules in a clear, coherent, and predictable way.

Such a framework will strengthen a State's capacity to manage and facilitate migratory movements to and through its territories, while addressing border-related issues and optimizing border management practices.

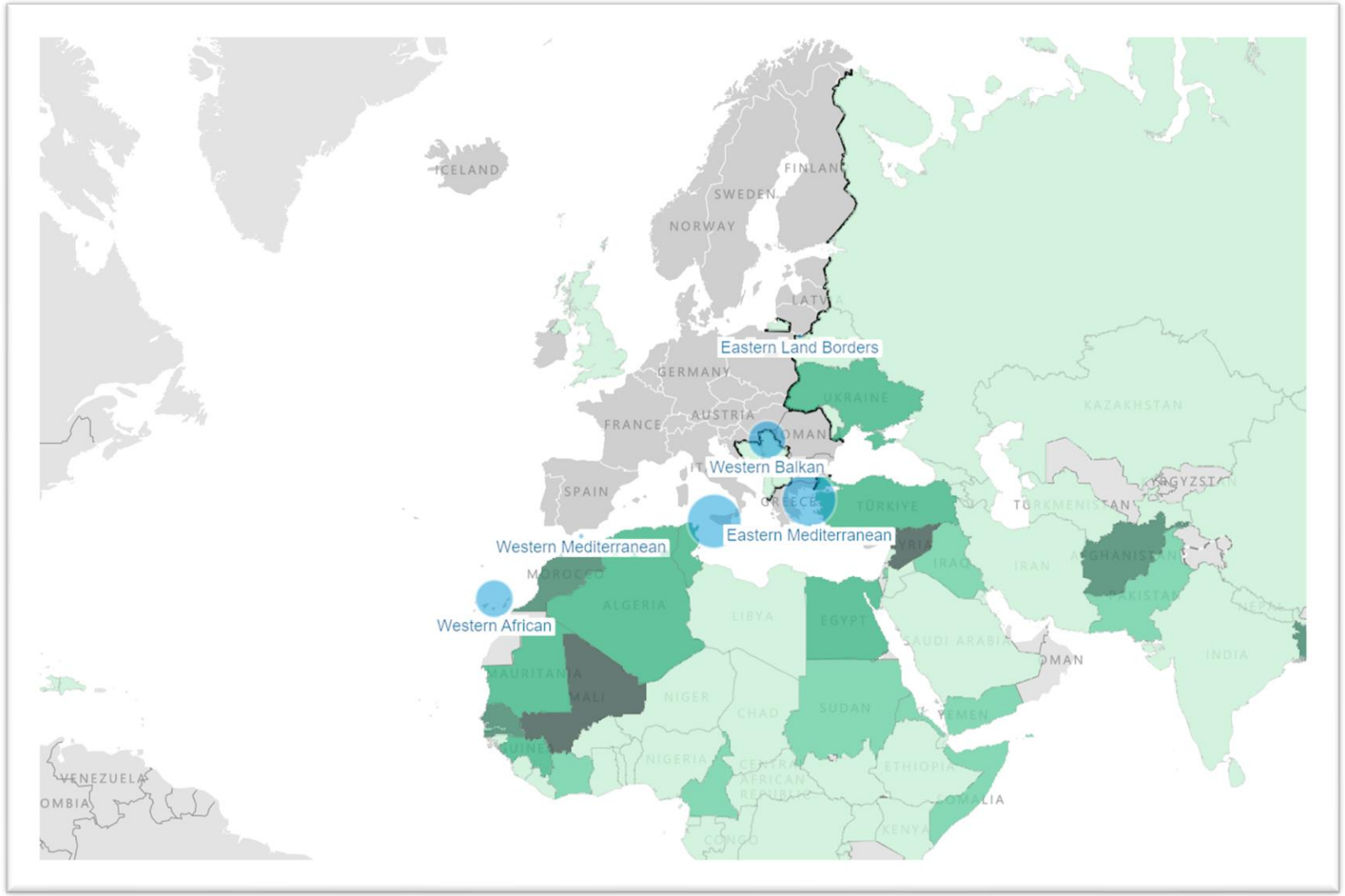
THE SCHENGEN *AQUIS* AND BORDERS

The overall European Union visa policy is contained in the Visa Code, as per Regulation (EC) No 810/2009

Conditions of **short stays** in the territory of the Union for up to **90 days** to the benefit of individuals who are not EU Member States citizens and that can be entitled to a visa with full enjoyment of **free movement and other rights** in the applicable area: the 24 out of the 27 EU Member States' territory and Croatia, Iceland, Liechtenstein, Norway and Switzerland or the "**Schengen area**"

*The Schengen area is the **biggest border control-free travel region in the world.** Short stay are allowed for tourism (including joining the family, cultural and sport events), medical reasons, as well as study, research and business purposes*

*The EU works on **initiatives to attract visitors and promote digitalization** processes that support free and safe movements across its external borders.*
(e.g. Common European Tourism Data Space).



Monitoring and Risk Analysis

(Interactive Map per Route)

- 67,571 km of **coastline**
- 14,647 km of **land** borders
- 21 third countries/ non-EU.
- *447 million inhabitants, including non-nationals with or without a residence permit, and mobility of more than 700 million people crossing the EU's external borders/year*

Schengen Area External Borders (Source FRONTEX - May 2024)

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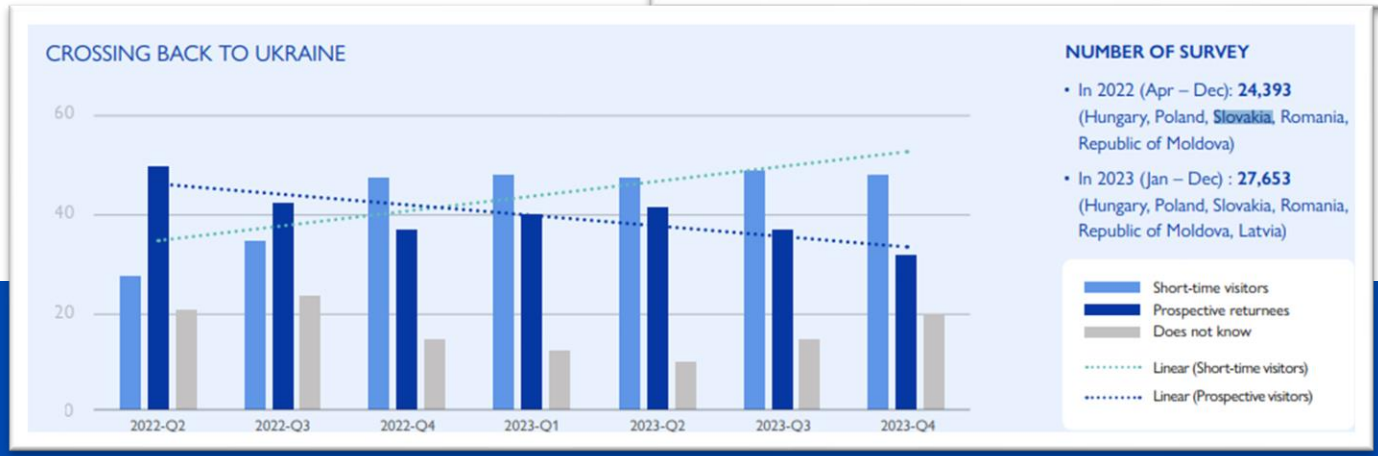
Slovakia Main Cross-Border Points (both Schengen and non-Schengen) are:

- Bratislava international airport
- Kosice international airport
- Vysne Nemecke on the only Schengen land border (with Ukraine)



Slovakia

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Slovakia Cross-Border Points with Ukraine

*(Source **MoI** - https://www.minv.sk/?hranicne-priechody-1)*

Border crossings on the section of the state border with Ukraine

Name of the border crossing	Type of border crossing	Operating time	Phone	Dislocation	Category	
					persons	transportation
Čierna nad Tisou - Čop	railway	continuous	0961764915	* SR/UA	* VŠS	passenger and freight transport
Veľké Slemence - Mali Slemence	road	08:00 - 20:00	0961764815	* SR/UA	SR/UA, *EEA	for pedestrians and cyclists
Maťovské Vojkovce - Pavlovo	railway	continuous	0961764715	* SR/UA	* VŠS	freight
Vysne Nemecké - Uzhgorod	road	continuous	0961754120	* SR/UA	* VŠS	unlimited passenger and freight transport*
Ubla - Maly Berezny	road	continuous	0961764410	* SR/UA	* VŠS	passenger transport (including regular and irregular buses, pedestrians and cyclists) and cargo transport up to 3.5t

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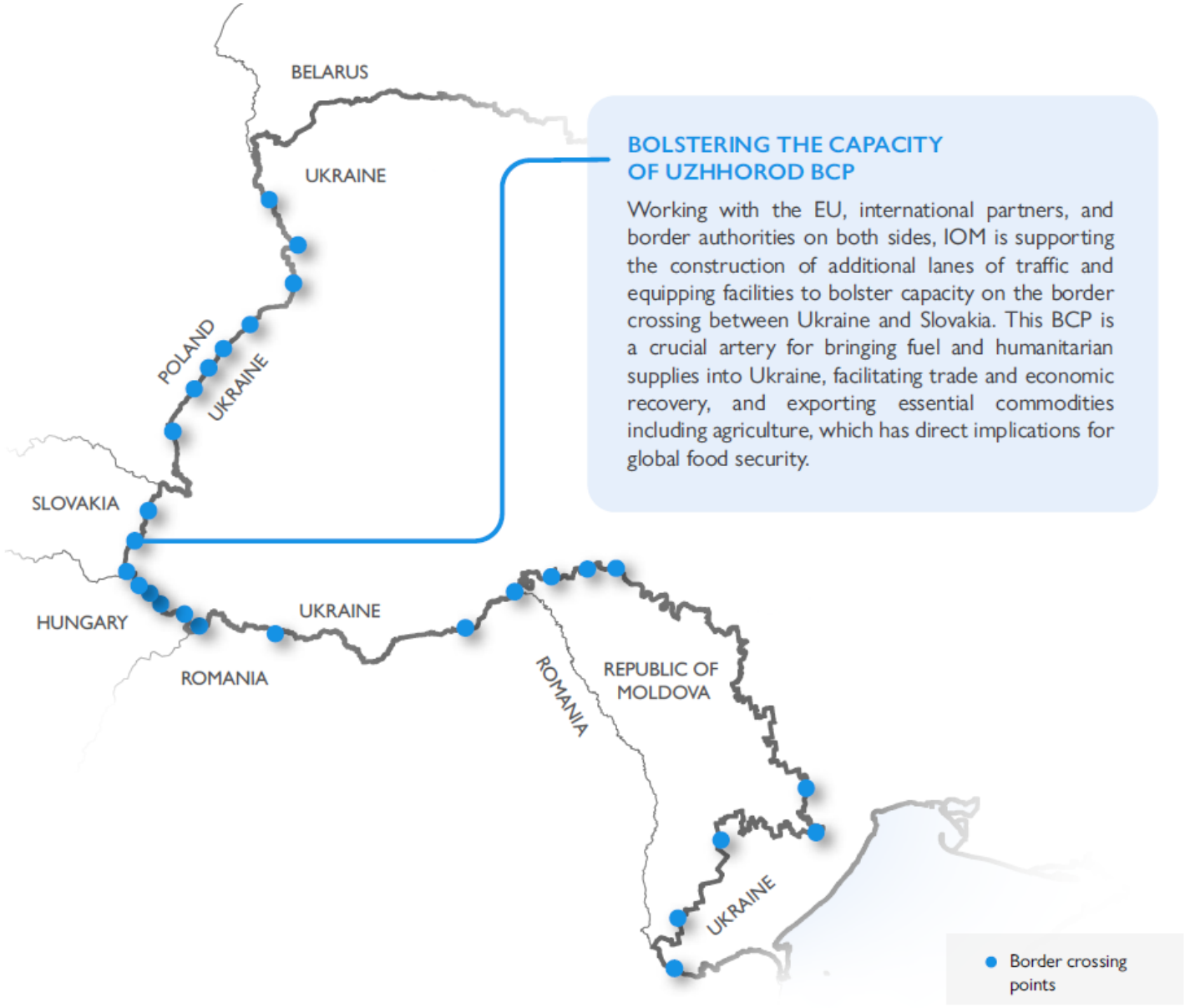
Promising Practice: HBM in Ukraine

- Advising on streamlined procedures
- **Decongesting** BCPs
- Equipping border authorities with **Registration Systems**
- Distributing Multi-Lingual Information Leaflets
  - Safety tips
  - Helpline numbers
- Facilitating **Cross-border Delivery of Humanitarian Aid and Fuel**



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SECTOR HIGHLIGHTS

+30

BORDER CROSSING POINTS (BCPS) AND ARRIVAL LOCATIONS WITH HUMANITARIAN BORDER MANAGEMENT (HBM) PROGRAMMING

Including support for:

- uninterrupted operation of BCPs through equipment upgrades, capacity building, and technical assistance on streamlining and strengthening processing operations;
- monitoring protection concerns for people crossing, including children, at the request of EU border and coast guard agency (FRONTEX); and
- arrivals can make timely and informed decisions upon receipt of multi-lingual information leaflets.

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Preparedness

What happens in situations of crisis?

CRISES

- Humanitarian crises → human suffering, threats and **violations of international human rights and humanitarian law**.
- Pre-existing Protection Concerns → *trigger a crisis or exacerbate the situation* and its impact on affected populations.

International law provides a robust framework for protecting the human rights of populations adversely affected by armed conflicts, situations of violence and insecurity, including environmental degradation and disasters due to natural hazard.

('humanitarian crises' refers to both **conflict** situations as well as **disasters**).

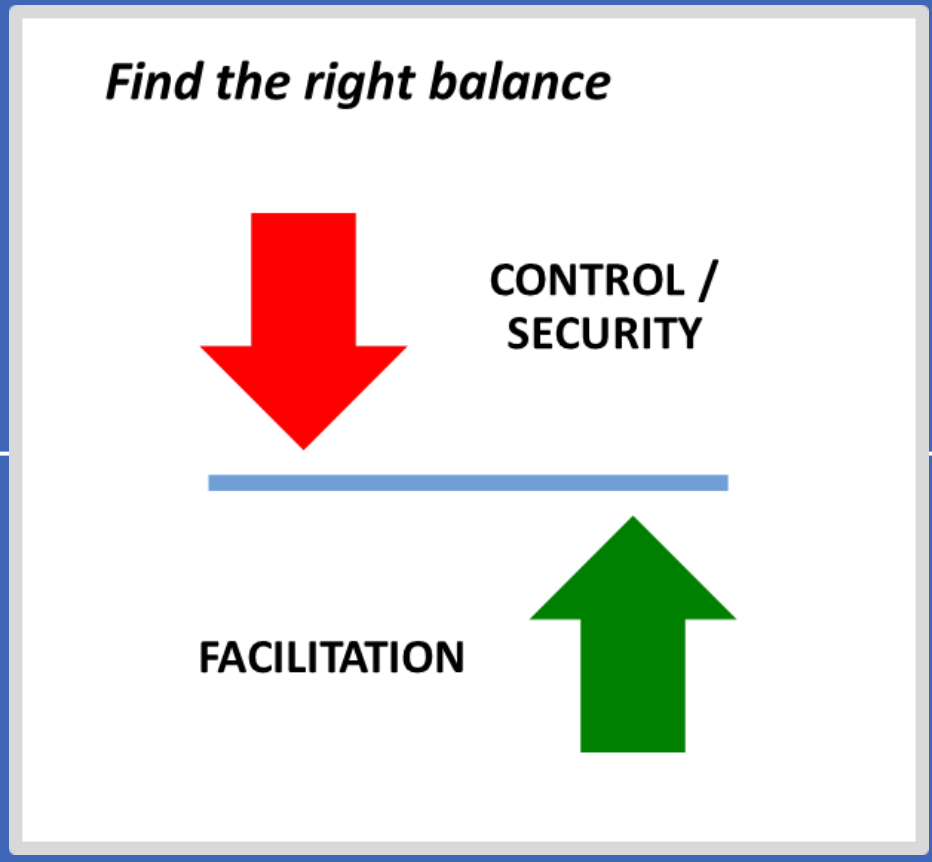
Bottom Line: Saving lives, protect the health and dignity of individuals.

What is a humanitarian crisis?

- Armed conflict
- Political instability
- Economic crash
- Drought
- Food insecurity, famine
- Tropical storms
- Flooding
- Earthquake
- Volcanic eruption
- Disease outbreak
- Rising sea levels?
- Extreme violence?
- Nuclear disaster?
- Political messages?
- Others?

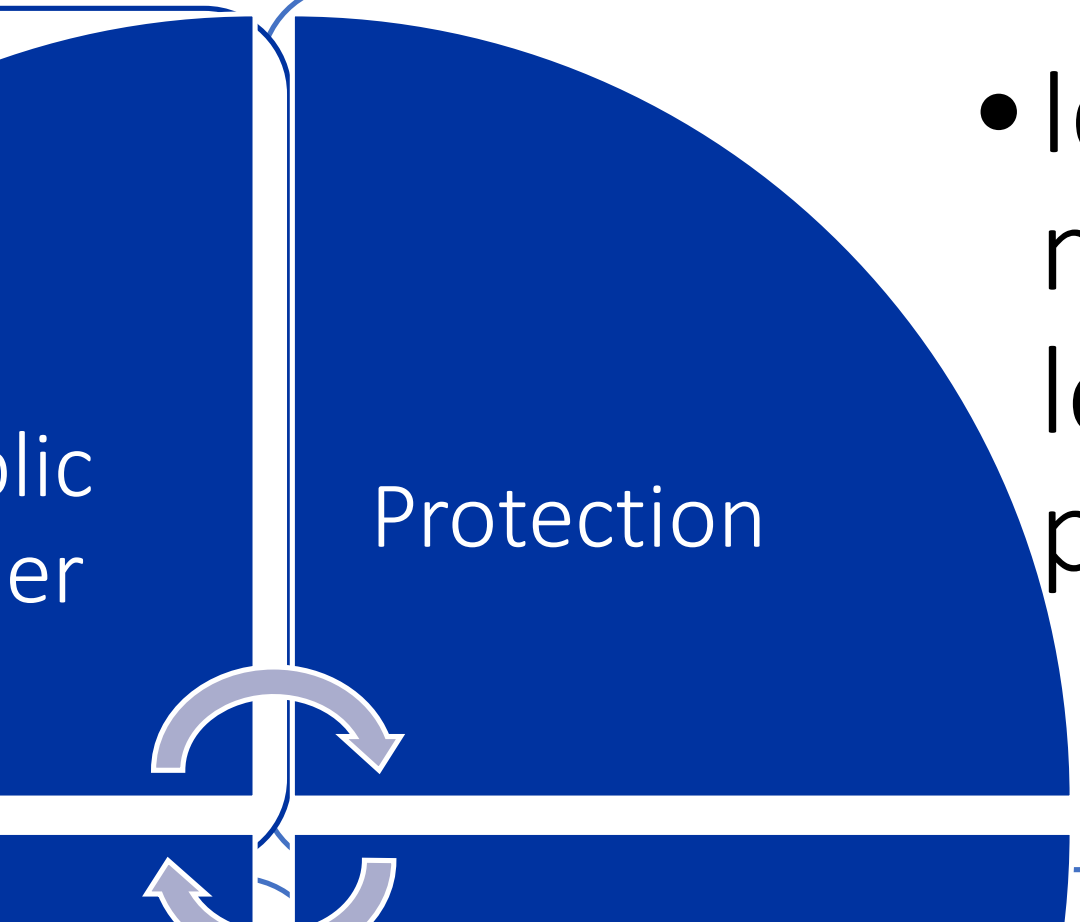
Could any of these prompt large-scale movements and a migration crisis?

Ordinary border management :



Ordinary border management :

Facilitate the legitimate movement of individuals and trade

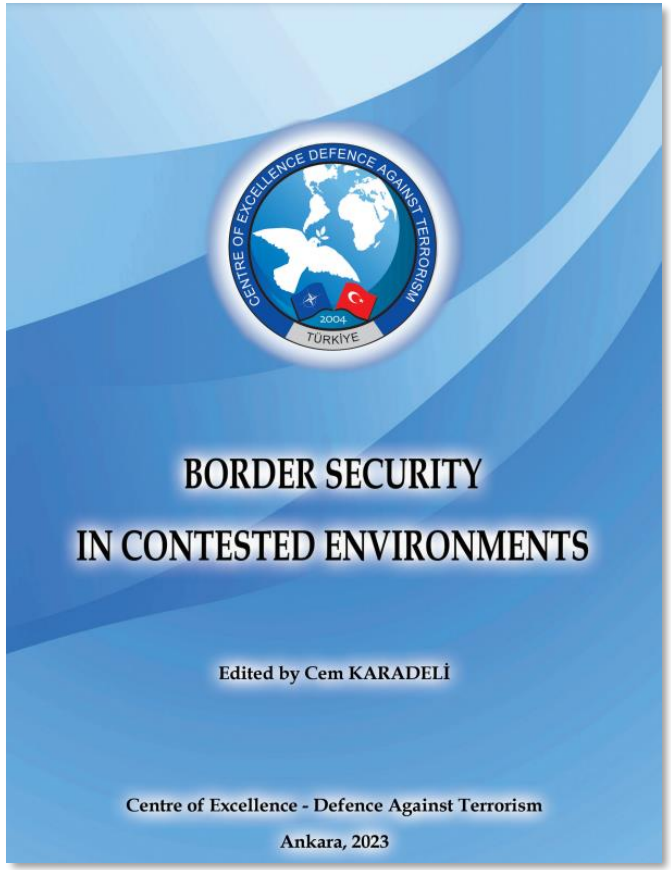


- Identifying individuals in need of immediate or long-term assistance or protection (referrals)

Can border management be *HUMANITARIAN*?

- National security, border integrity, AND rights of migrants already coexist in IBM
- Can **crisis** change this equilibrium?:
  Conflicts, climate change, environmental degradation, persecutions, etc.

Three Dimensions of **HBM Model**



1. **Humanitarian**
2. **Border** Governance **and** Management
3. **Security** aspects that the border dimensions intrinsically bring with them

https://www.coedat.nato.int/publication/researches/17-BorderSecurityReport2023.pdf

In one sentence:

Ensure that borders remain open also during humanitarian crises.

When:

- Migrants are not in the position to fulfill ordinary requirements to enter or leave a country
- Border agencies do not have adequate capacities to respond to unplanned large-scale arrivals of people or deal with specific individual cases that go beyond the “ordinary” scenarios

HBM and IOM's Strategic Plan 2024-2028

"Our migration expertise will allow us to **assists States** to develop appropriate and **rights-based border management responses** so that more people can move to safety."

How to get there?

<u>Capacity development:</u>

- **Policy**
- **Legal**
- **Operational**
- **Technology/Equipment**
- **Cooperation/Coordination**

What happens without HBM?

- Rights Violations
- Organized Crime
- Health-related concerns
- Border closure
- Restrictive policies
- “Weaponizing” migration
- Others ?

HUMANITARIAN BORDER MANAGEMENT (HBM)

Ultimate objective: **keep borders open** yet secure during a crisis

It goes beyond the traditional scope of border patrolling and immigration controls

Maintaining effective border controls while ensuring **humanitarian imperatives**

T – I – M – E !!!

HUMANITARIAN BORDER MANAGEMENT (HBM)

It is best implemented when HBM IS NOT NEEDED

The payoff will be in **Preparedness**

HBM ASSESSMENT

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HBM ASSESSMENT MODEL

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CONTINGENCY PLANNING

1. PREPARATION

- Review
- Stakeholder mapping

2. ANALYSIS

- Risk analysis
- Analysis of the capacity on the ground
- Development of scenarios

3. RESPONSE PLANNING

- Defining government's objectives, strategies and procedures

4. RESPONSE IN EMERGENCY SITUATIONS

- Human resources management
- Public information management
- Data collection and management

5. EVALUATION AND FOLLOW-UP ACTIONS

- Simulation exercise

HBM Areas of Interventions

Before a crisis:
Preparedness

During a crisis:
Saving lives and protecting people on the move

After a crisis:
Build Resilience and Support Recovery

HUMANITARIAN BORDER MANAGEMENT (HBM)

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IOM'S THREE STAGES OF INTERVENTION

PREPAREDNESS

For enhanced, efficient and effective responses and facilitate after the crisis resilience

- HBM legal, capacity and needs assessment
- Situational context analysis
- Legal framework for human rights and international obligations and agreements
- Standard operating procedures Early warning systems
- Inter-agency contingency planning
- Training and capacity-building
- Development of a framework for cultural mediators support
- Risks assessments to minimize threats posed by transnational organized crime operating in crisis context.
- Verification of legal basis to enable alternatives to administrative detention for crisis-affected migrant population

RESPONSE

Saving lives and protecting people on the move (during the crisis)

- Registration and collection of data on migration movements
- Screening, identification and referral of people in vulnerable situations
- Evacuation/ Search & Rescue (SAR) operations at sea, land and desert.
- Rapid mobile intervention teams and mobile assistance/ training
- Procurement of mobile registration and communications equipment
- Emergency consular services; assistance in readmission and return of nationals of other countries

AFTER THE CRISIS

Evidence-based support for Resilience and Recovery

- Assessments on impact of HBM interventions
- Redefining border and migration management procedures, according to the HBM assessment evidence and recommendations
- Restoration of ordinary border and migration management systems and processes.
- Leveraging values, opportunities and advantages for integration initiatives, and/or return programs.
- Evaluation of avenues for regular pathways, including regularization and/or resettlement.
- Risk assessment to minimize threats posed by transnational organized crime operating in crisis context.

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HBM Areas of Interventions

INTEGRATED(+) APPROACH TO HUMANITARIAN BORDER MANAGEMENT

- Various arms of government
- Red Cross/Crescent, Volunteers, Interpreters
- UN agencies / International Organizations
- Reception centres, Social services, Civil society
- Medical services
- Legal support, Child protection services
- Consular authorities

Preparedness: TRAINING

- Emergency SOP implementation
- Gender and border management procedures
- International humanitarian law
- Human rights at international borders
- Identifying migrants in vulnerable situations and ensuring migrant protection
- Migrant health and mental health
- Evacuation, search and rescue
- Etc.

WHAT FOR?

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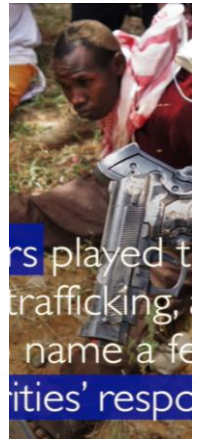
Preparedness: SIMULATION EXERCISES



SIMULATION EXERCISE

Preparedness: DEVELOP DIRECTIONS AND PROCEDURES (SOP)

- Emergency command structure and proper division of tasks
- Referral and protection mechanism
- Emergency powers, exception clauses, etc.
- Border processing procedures and registration of migrants
- Training and dissemination of standards

TOOLS READY TO BE USED DURING A CRISIS

Policy and legal framework	For dealing with migration emergencies rooted in international humanitarian law and human rights law, contingency plans and agreements
Administrative and Institutional framework	To establish good governance, effective collaboration, efficient management of crisis responses
Interagency, regional and/or international working groups	Internationally recognized best practices to ensure collaboration or oversight
Referral system	To assist migrants and provide humanitarian relief services
Human resources framework	To properly deploy experts and special units and provide crisis response training for border agencies
ICT Equipment	Border management information systems, mobile registration systems, information exchange, emergency communication systems
Infrastructure	Best practices on Transport, communication, registration, and rescue equipment
Standard Operating Procedures (SOP)	To ensure effective and efficient operationalization of policies and instructions

Migration and Humanitarian Border Management (HBM)

Definitions matter

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EXERCISE

GETTING THE TERMINOLOGY RIGHT

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HUMANITARIAN BORDER MANAGEMENT (HBM)

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Irregular migration	Migration management	Mixed magration
Border management	Migration	Migration crisis
Humanitarian border management	Drivers of migration	Migrant

HUMANITARIAN BORDER MANAGEMENT (HBM)

DEFINITION 1

The movement of persons away from their place of usual residence, either across an international border or within a State.

Irregular migration	Migration management	Mixed magration
Border management	Migration	Migration crisis
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HUMANITARIAN BORDER MANAGEMENT (HBM)

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HUMANITARIAN BORDER MANAGEMENT (HBM)

DEFINITION 2

A person who moves across an international border or within a State away from the habitual place of residence, regardless of:
1) the person's legal status
2) whether the movement is voluntary or involuntary
3) what the causes for the movement are
4) what the length of the stay is.

Irregular migration	Migration management	Mixed magration
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HUMANITARIAN BORDER MANAGEMENT (HBM)

DEFINITION 3

Complex set of interlinking factors that influence an individual, family or population group's decisions relating to migration, including displacement.

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HUMANITARIAN BORDER MANAGEMENT (HBM)

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HUMANITARIAN BORDER MANAGEMENT (HBM)

DEFINITION 4

The movement of persons that takes place outside the laws, regulations, or international agreements governing the entry into or exit from the State of origin, transit or destination.

Irregular migration	Migration management	Mixed magration
Border management	Migration	Migration crisis
Humanitarian border management	Drivers of migration	Migrant

HUMANITARIAN BORDER MANAGEMENT (HBM)

DEFINITION 4

The movement of persons that takes place outside the laws, regulations, or international agreements governing the entry into or exit from the State of origin, transit or destination.

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Border management	Migration	Migration crisis
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HUMANITARIAN BORDER MANAGEMENT (HBM)

DEFINITION 5

Complex and often large-scale migration and mobility patterns caused by a crisis. It typically involves significant vulnerabilities for individuals and affected communities and generates acute and longer-term migration management challenges. It may be sudden or slow in onset, it can be driven by climate change, environmental degradation and disasters due to natural hazard, can take place internally or across borders.

Irregular migration	Migration management	Mixed magration
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HUMANITARIAN BORDER MANAGEMENT (HBM)

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HUMANITARIAN BORDER MANAGEMENT (HBM)

DEFINITION 6

Movement in which a number of people are travelling together, generally in an irregular manner, using the same routes and means of transport, but for different reasons.

Irregular migration	Migration management	Mixed migration
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HUMANITARIAN BORDER MANAGEMENT (HBM)

DEFINITION 6

Movement in which a number of people are travelling together, generally in an irregular manner, using the same routes and means of transport, but for different reasons.

Irregular migration	Migration management	Mixed migration
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HUMANITARIAN BORDER MANAGEMENT (HBM)

DEFINITION 7

The management and implementation of the whole set of activities primarily by States within national systems or through bilateral and multilateral cooperation, concerning all aspects of migration and the mainstreaming of migration considerations into public policies.

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Border management	Migration	Migration crisis
Humanitarian border management	Drivers of migration	Migrant

HUMANITARIAN BORDER MANAGEMENT (HBM)

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HUMANITARIAN BORDER MANAGEMENT (HBM)

DEFINITION 8

Administration of measures related to authorized movement of persons (regular migration) and goods, whilst preventing unauthorized movement of persons (irregular migration) and goods, detecting those responsible for smuggling of migrants, trafficking in persons and related crimes and identifying the victims of such crimes or any other person in need of immediate or longer-term assistance and/or (international) protection.

Irregular migration	Migration management	Mixed magration
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HUMANITARIAN BORDER MANAGEMENT (HBM)

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HUMANITARIAN BORDER MANAGEMENT (HBM)

DEFINITION 9

Border operations carried out before, during and after humanitarian crisis which trigger large-scale cross-border migration. Sometimes also referred to as "Crisis Border Management", "Emergency Border Management" or "Emergency Preparedness".

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HUMANITARIAN BORDER MANAGEMENT (HBM)

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HUMANITARIAN BORDER MANAGEMENT (HBM)

‘Ordinary’ border management

- Checking Travel Documents/ Vehicles/ Luggage
- Prevent irregular crossing of the border
- Identify fraudulent documents / visa
- Identify persons on the watchlist and prevent their entry into the country
- Prevent smuggling of weapons and/or drugs
- Prevent smuggling of migrants and trafficking in persons
- Fight transnational organized crime

Border Management at times of a migration crisis

- Multiple, complex **Search & Rescue Operations** (SAR) and post-rescue assistance
- Facilitate movement of **relief aid**
- Run migrant **reception** centers
- Prevent the spread of communicable **diseases**
- Ensure effective **exchange information**
- **Identify/assist and refer** victims/survivors of trafficking in persons large scale migration
- Identify(assist and refer **refugees**, asylum seekers and other people of concern
- Identify, assist and refer persons in vulnerable situations

Legal and Policy Frameworks

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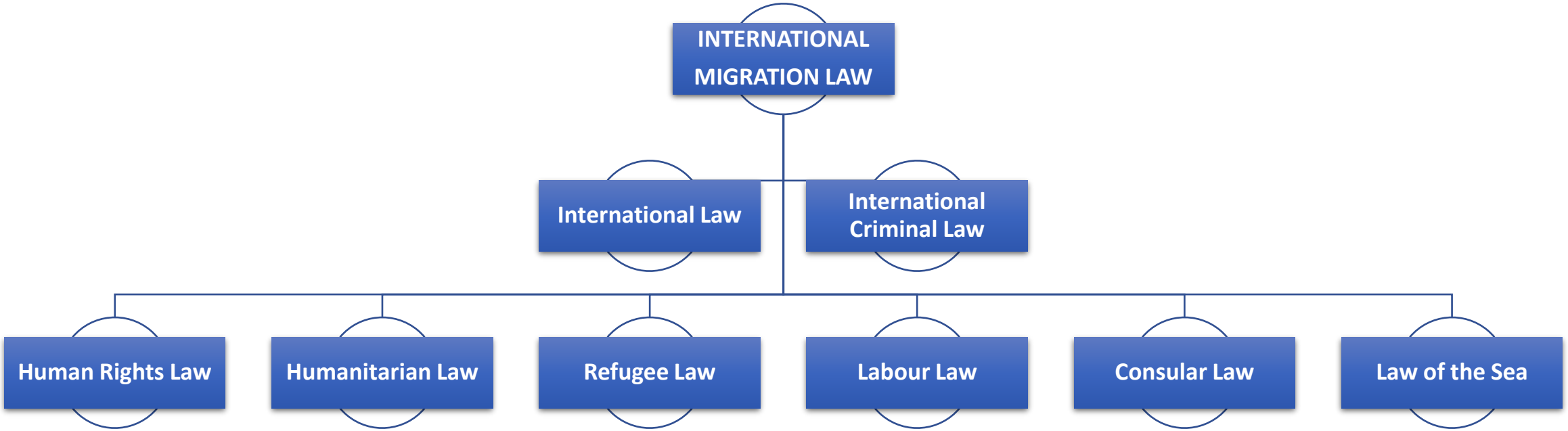
INTERNATIONAL LEGAL FRAMEWORK



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HUMAN RIGHTS

Three fundamental principles of the **Universal Declaration of Human Rights (1948)**, as human rights are:

- 👉 Universal and Inalienable
- 👉 Interdependent and Indivisible
- 👉 Equal and Non-Discriminatory

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PRINCIPLE OF PROGRESSIVE REALIZATION

FIRST GENERATION
Civil and Political Rights

- **Right to life**
- **Prohibition of torture, cruel and inhuman treatment and punishments**
- Right to freedom and personal security
- Freedom of movement and choice of place of residence
- Right to a fair trial
- Right to privacy
- Right to property
- Freedom of thought, conscience and religion
- Freedom of expression
- Freedom of peaceful assembly
- Freedom of association

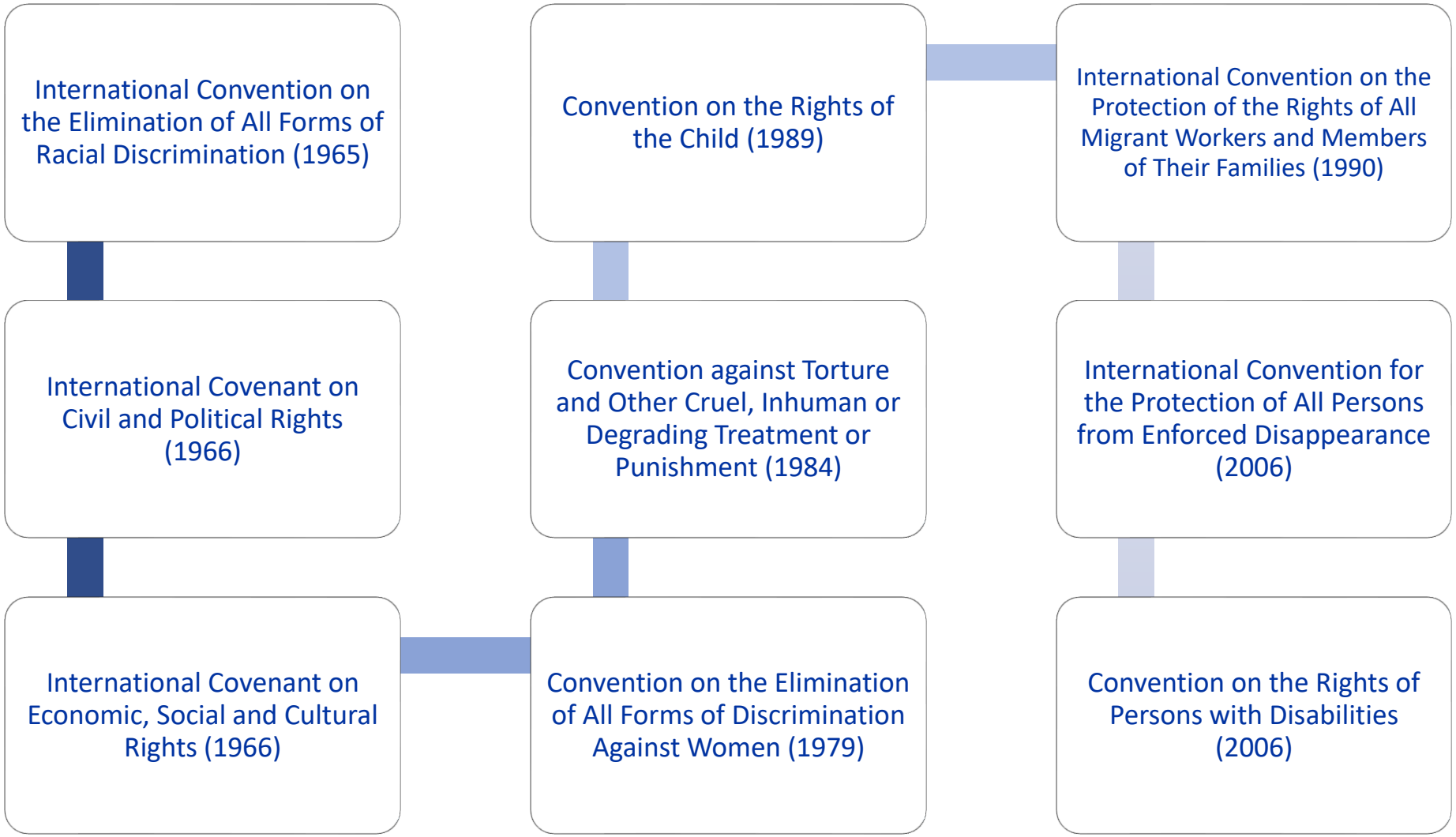
SECOND GENERATION
Economic, Social and Cultural Rights

- Right to work, limited working hours and protection at work
- Right to social insurance
- Right to health
- Right to education
- Right to participate in cultural life

THIRD GENERATION
Solidarity rights

- Right to self-determination
- Right to a healthy environment
- Right to peace
- Right to development

NINE CORE INTERNATIONAL HUMAN RIGHTS INSTRUMENTS



STATUS OF RATIFICATION OF HUMAN RIGHTS TREATIES IN SLOVAKIA

Status for Slovakia - Slovakia

Procedures | Treaties

Treaty	Actions		
	Signature	Acceptance	Entry into force
CAT			28 May 1993
CAT-OP	14 Dec 2018	19 Sep 2023	19 Oct 2023
CCPR			01 Jan 1993
CCPR-OP1			01 Jan 1993
CCPR-OP2-DP	22 Sep 1998	22 Jun 1999	22 Sep 1999
CED	26 Sep 2007	15 Dec 2014	14 Jan 2015
CEDAW			27 Jun 1993
CEDAW-OP	05 Jun 2000	17 Nov 2000	22 Dec 2000
CERD			01 Jan 1993
CESCR			28 May 1993
CESCR-OP	24 Sep 2009	07 Mar 2012	07 Jun 2012
CMW			
CRC			01 Jan 1993
CRC-OP-IC	28 Feb 2012	03 Dec 2013	03 Mar 2014
CRPD	26 Sep 2007	26 May 2010	26 Jun 2010
CRPD-OP	26 Sep 2007	26 May 2010	26 Jun 2010

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WHICH RIGHTS?

Universal Declaration of Human Rights (UDHR):	• Article 13: Right to freedom of movement within the borders of each state. • Article 14: Right to seek asylum from persecution. • Article 15: Right to a nationality and not to be arbitrarily deprived of it.
International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW):	• Various articles outline the rights of migrant workers and their families, including provisions on non-discrimination, equality of treatment, access to justice, and protection against arbitrary detention and expulsion.
International Covenant on Civil and Political Rights (ICCPR):	• Article 12: Right to freedom of movement within the borders of each state. • Article 13: Right to leave any country, including one's own, and to return to one's country.
International Covenant on Economic, Social and Cultural Rights (ICESCR):	• Article 7: Right to fair wages and safe working conditions for migrant workers. • Article 11: Right to an adequate standard of living for migrants, including housing, food, and healthcare.
Convention Relating to the Status of Refugees (1951 Refugee Convention):	• Various articles outline the rights and protections afforded to refugees, including the principle of non-refoulement (Article 33), the right to work (Article 17), and access to education (Article 22).
Convention on the Rights of the Child (CRC):	• Right to life, survival, and development • Right to a name and nationality • Right to play, rest, leisure, and recreational activities

NON-REFOULEMENT PRINCIPLE

- No one should be returned to a country where they would face torture, cruel, inhuman or degrading treatment or punishment and other irreparable harm.
  This principle applies to all migrants at all times, irrespective of migration status.

- **Refugee Law**: No Contracting State shall expel or return (" *refouler* ") a refugee in any manner whatsoever to the **frontiers of territories** where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion. (art. 33 CSR)

WHAT'S THE DIFFERENCE BETWEEN A REFUGEE AND AN ASYLUM SEEKER?

- **A refugee is:** someone who is unable or unwilling to return to their country of origin owing to a well-founded fear of being persecuted for reasons of **race, religion, nationality, membership of a particular social group, or political opinion**

- **An asylum seeker is**: someone whose request for international protection has not yet been processed but was formalized before the competent authorities.

(Convention relating to the Status of Refugees, 1951)

REFUGEE LAW

The primary sources of Refugee Law include the Convention relating to the Status of Refugees (1951) and its Protocol (1967).

Key provisions of the Convention:

- Definition of the Term and Rights of Refugees;
- Principle of Non-Criminalization for Illegal Entry;
- Prohibition of Expulsion or Return (refoulement).

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THE LAW OF THE SEA

- The main legal source on the Law of the Sea is the **United Nations Convention on the Law of the Sea (UNCLOS)** of 1982.
- International Convention for the Safety of Life at Sea (**SOLAS** Convention, 1974)
- International Convention on Maritime Search and Rescue (**SAR** Convention, 1979)

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OTHER AREAS OF LAW RELEVANT TO INTERNATIONAL BORDERS

CONVENTION OF STATELESSNESS	Convention Relating to the Status of Stateless Persons (1954)
	Convention on the Reduction of Statelessness (1961)
INTERNATIONAL LABOUR LAW	Migration for Employment Convention (Revised) of 1949 (No. 97)
	Migrant Workers (Supplementary Provisions) Convention of 1975 (No. 143)
INTERNATIONAL CRIMINAL LAW	The Rome Statute of the International Criminal Court (1998)
	Convention Against Transnational Organized Crime (2000)
	Protocol To Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000)
	Protocol Against the Smuggling of Migrants by Land, Sea and Air (2000)

INTERNATIONAL CRIMINAL LAW

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WHAT'S THE DIFFERENCE BETWEEN TIP & SM?

	Trafficking in Persons	Smuggling of Migrants
PERSONAL/Subjective ELEMENT	Intention	Intention
MATERIAL ELEMENT	• **Act (what is done)** One of the following: recruiting, transporting, transferring, harbouring, receiving a person**.** • **Mean* (how it done)** At least one of the following: use of force, threat of force, coercion, abduction, fraud, deception, abuse of power, abuse of position of vulnerability giving or receiving benefits. • **Purpose (why it is done)** Exploitative purpose	• **Act (what is done)** Procurement of illegal entry of another person into another State. • **Purpose (why it is done)** For financial or other material benefit.
CONSENT OF THE TRAFFICKED OR SMUGGLED PERSON	Irrelevant once the means* are established.	The Protocol does not include in its wording the necessity of establishing the consent of the smuggled migrant.
TRANSNATIONALITY	Not required	Required
INVOLVEMENT OF AN ORGANIZED CRIME GROUP	Not required	Not required

USE OF FORCE: WHEN IS APPROPRIATE?

Any use of force by law enforcement, including border officials, should be in accordance with the principles:

- Legality
- Precaution
- Necessity
- Proportionality, and
- Non-Discrimination

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DEROGATIONS TO HUMAN RIGHTS

⚠ **Derogations -** "*in time of **public emergency** which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures **derogating** from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin*."

(ICCPR article 4, par. 1).

⚠ The derogation to certain human rights by States is valid if it is implemented in accordance with criteria of **lawfulness**, **legitimate aim**, **necessity**, **proportionality** and **non-discrimination**.

Lastly, as exceptional measure, it has a **limited duration in time**.

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HBM: KEY PRINCIPLES

SAVING LIVES:

- The **Primacy of Human Rights**
- The Principle of **Non-Discrimination**
- The Principles of **Do No Harm** and **Protection** and **Assistance**, namely human rights obligations prevail over law enforcement and migration management objectives
- The Principle of **Non-Refoulement**
- The Principles of **Saving Lives at Sea** and the **Duty to Render Assistance** to persons in distress at sea

HUMANITARIAN PRINCIPLES/Action:

- **Humanity** → Inherent dignity of each persons
- **Impartiality** → Based on the needs
- **Neutrality** → No side in conflicts
- **Independence** → Autonomy from other interests.

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RIGHTS-BASED APPROACH

PRINCIPLES	
	Principle A: The primacy of human rights
	Principle B: Non-discrimination
	Principle C: Assistance and protection from harm

GUIDELINES	
	Guideline 1: Promotion and protection of human rights
	Guideline 2: Legal and policy framework
	Guideline 3: Building human rights capacity
	Guideline 4: Ensuring human rights in rescue and interception
	Guideline 5: Human rights in the context of immediate assistance
	Guideline 6: Screening and interviewing
	Guideline 7: Identification and referral
	Guideline 8: Avoiding detention
	Guideline 9: Human rights-based return or removal
	Guideline 10: Cooperation and coordination

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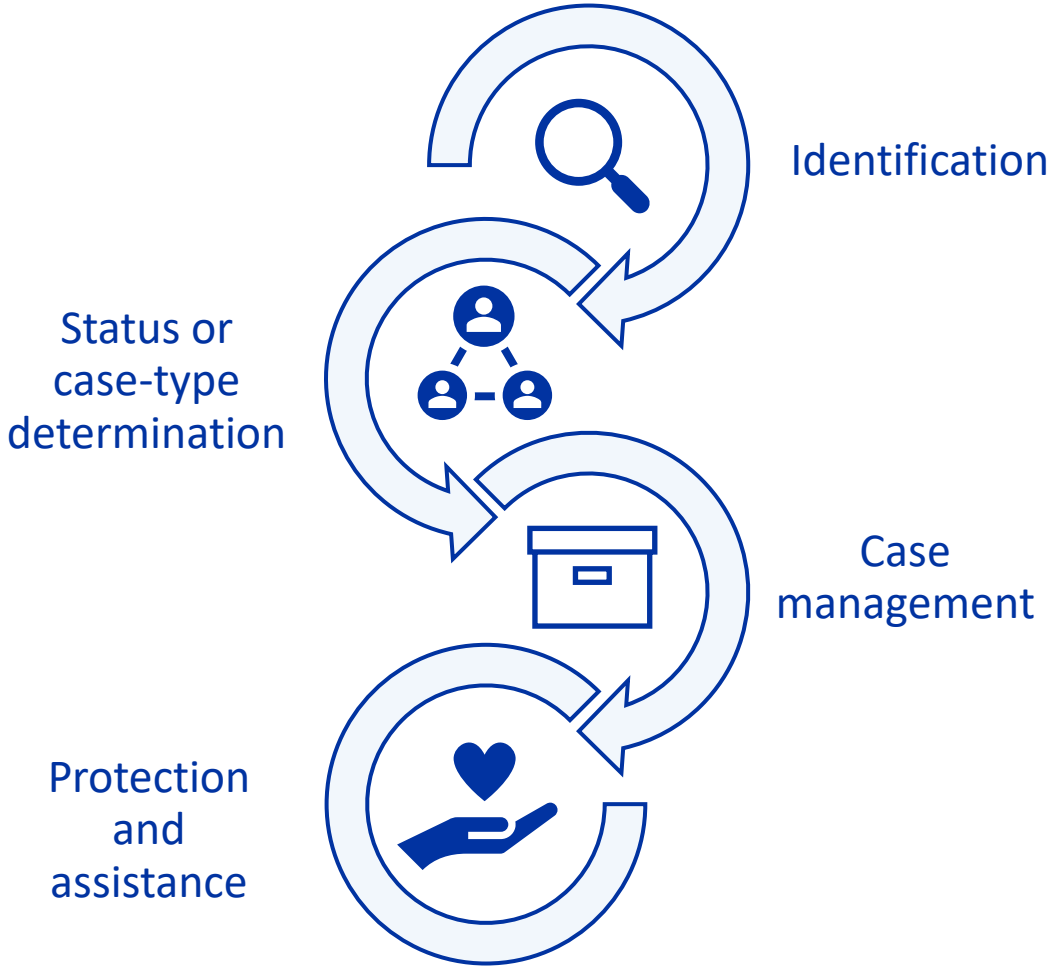
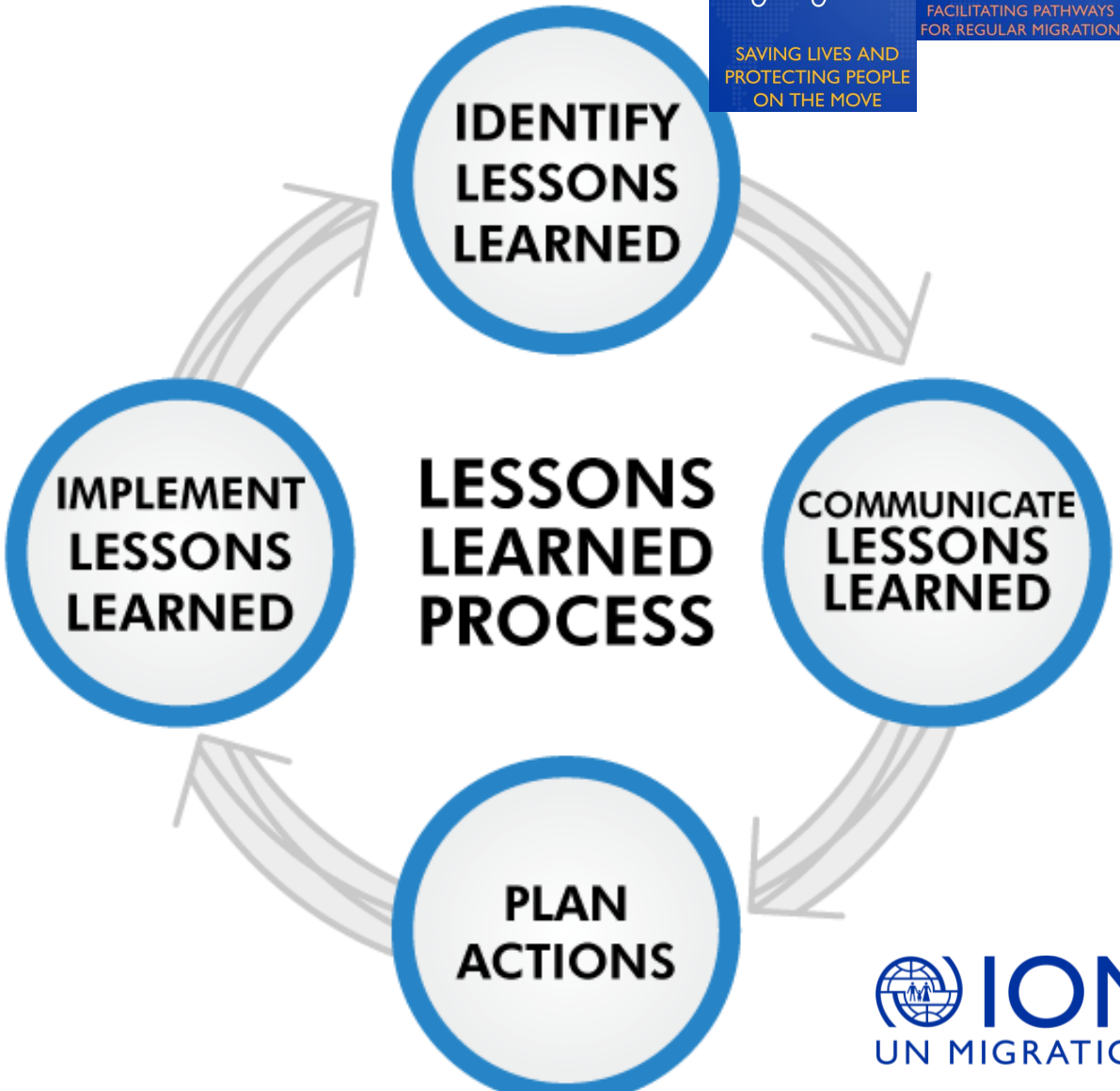
Identification and Vulnerability Screening (and Referrals)



AFTER THE CRISIS?

- Restoration of infrastructure
- Facilitating return, reintegration
- Restoration of cross-border trade, economic recovery
- Anticipate on-going, circular migration
- Lessons learned and (re)planning
- *Regular Pathways*



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LINKING HBM AND REGULAR PATHWAYS

Pathways are clearly applicable to crisis situations, and connect to HBM after-the-crisis interventions:

- Supported by *UNNM 2021 Guidance Note on Regular Pathways*
  - *Provisions to admit people on humanitarian grounds must be established during preparatory phases*
- Regular Pathways provide a critical alternative to irregular migration.
- Regularization *(Coming up: the DMPI InterDpt Guidance Note)*
- Resettlement *(Cross-Department synergies)*

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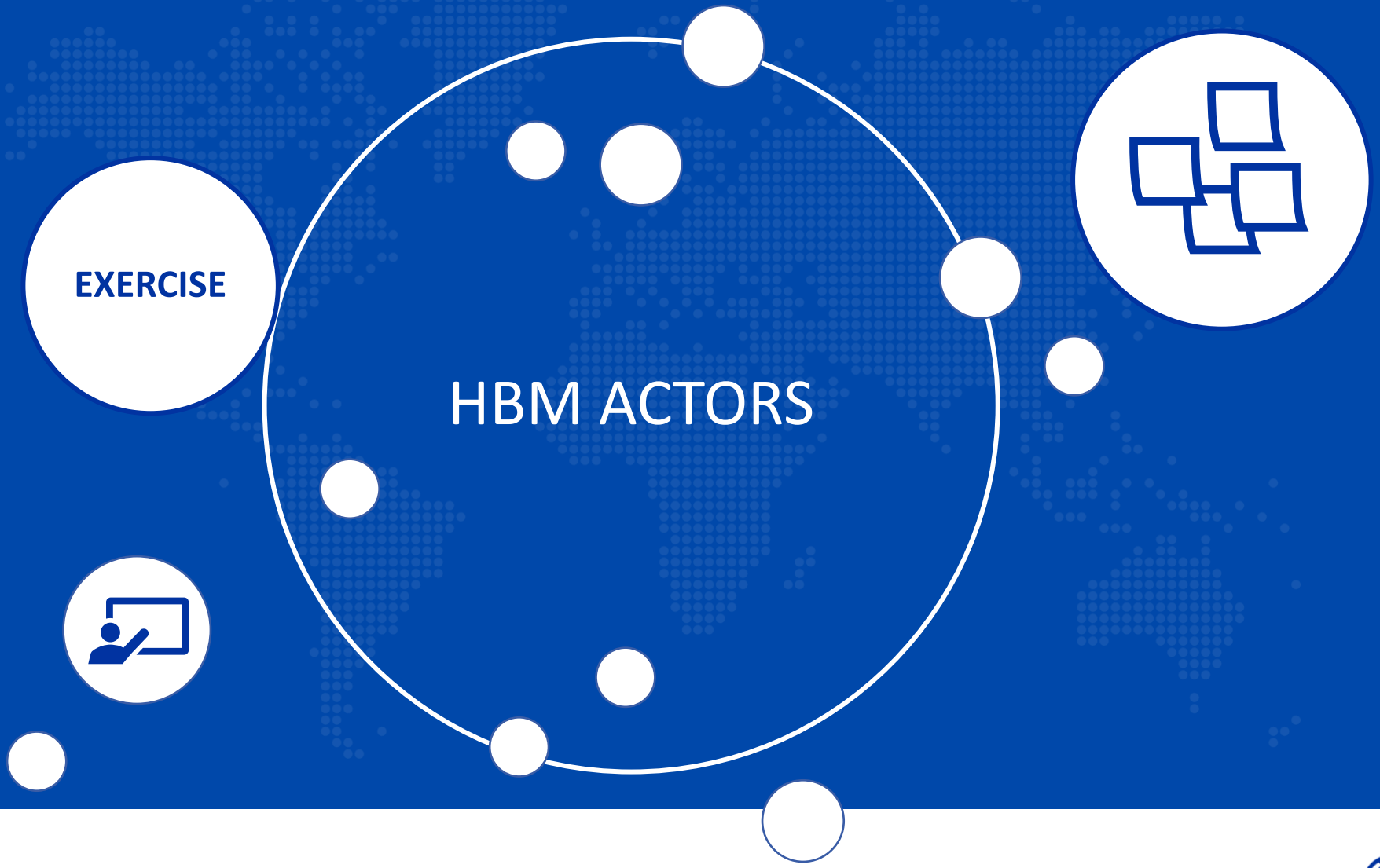

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KEY POINTS

- Importance of **preparedness** and **border management** during a **humanitarian crisis.**
- **Definitions** matter.
- Rights, principles and obligations of international law lay the **foundation** of HBM.

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HUMANITARIAN BORDER MANAGEMENT

Resources

- HBM Information Sheet (2024)
- HBM in IOM Emergency Manual
- Promotion Video on HBM
- Global Crisis Response Platform (GCRP)
- Article on HBM on LinkedIN and Article on HBM here

The International Organization for Migration (IOM) assists States in developing effective and rights-based border management initiatives and responses, to ultimately ensure safety for crisis-affected population. Crises such as conflicts, climate change, environmental degradation and uneven development are driving more displacement and irregular migration globally.

In this context, developed as part of the IOM's technical cooperation to support its Member States in enhancing their border and migration management systems, the Humanitarian Border Management (HBM) model provides practical and sustainable solutions to strengthen preparedness and establish adequate response mechanisms to assist crisis affected populations, nationals and non-nationals, in need of crossing the border during a humanitarian crisis, while ensuring that the security of the border is maintained. Through HBM initiatives, IOM provides technical support to Member States in building and strengthening responses to crisis settings on three main fronts:

a. Enhance cross-border humanitarian responses, in line with national security and border integrity, to ultimately uphold the rights of crisis affected population;
b. Enable border governance conforming with national sovereignty; and
c. Ensure border security.

IOM is well-positioned to provide on-the-ground, targeted expertise and technical cooperation to countries that wish to establish and/or improve their response mechanisms to heightened cross-border movements.

IOM assists Member States in building robust migration and border management programmes based on solid policies, laws, procedures and information systems, to timely respond also to sudden crisis.

Well-managed crisis responses prevent the closure of borders, hence ensure that fundamental rights and needs are timely addressed while effectively responding to humanitarian crisis.

MIXED MIGRATION

Human rights abuses, large-scale displacement of civilian populations, drug and arms trafficking, environmental disasters and health crises present direct threats to human security and may drive populations in the most vulnerable situations across borders. Population movements during crises include people on the move who, although not always fitting into established protection categories, are nonetheless exposed to violence, exploitation and abuse and crime, including smuggling of migrants, hence in situation of vulnerability that requires protection. HBM seeks to ensure that border management practices can adapt to the needs of specific groups found within complex mixed migration movements.

IOM STRATEGIC PLAN

Objective 1
Saving lives and protecting people on the move

Objective 3
Facilitating pathways for regular migration

HBM IN IOM'S MIGRATION CRISIS OPERATIONAL FRAMEWORK

IOM developed a Migration Crisis Operational Framework (MCOF), which serves as a practical, operational and institution- wide tool for improving and systematizing the way in which the Organization supports its Member States and partners to better prepare for and respond to migration crises. IOM's Technical Assistance for Humanitarian Border Management is one of its components.

USEFUL LINKS

- Article on HBM on LinkedIn
- Introductory e-learning course on HBM: E-Campus and I-Learn
- Promotion Video on HBM
- HBM is included in the Global Crisis Response Plan (GCRP objective 1: Saving lives)

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THANK YOU

QUESTIONS?

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