



## **The European Union, Asylum and the International Refugee Protection Regime : the new multiannual programme in the area of freedom, security and justice**

### **Key recommendations from UNHCR**

1. *UNHCR strongly encourages the European Council to ensure that the multiannual programme reaffirms the European Union's commitment to safeguarding the rights of refugees and other persons in need of international protection, and to work to ensure that refugees around the world receive the international protection to which they are entitled – including timely access to durable solutions.*
2. *UNHCR strongly encourages the European Council to reaffirm its commitment to develop future asylum and migration policy based on the full and inclusive application of the 1951 Convention and other relevant human rights instruments.*
3. *UNHCR calls on Member States to maintain or adopt legislation and policies that go beyond minimum levels set out in EU instruments, and reflect higher standards in line with international law and best practice.*
4. *UNHCR further encourages the Council and the Commission to provide for wider input from UNHCR and other experts in plans to monitor the transposition and implementation of EU instruments into national law.*
5. *UNHCR suggests that a system or forum be established to review and assess the application, interpretation and impact of EU asylum instruments to identify legal and practical gaps and to avoid violations of international law. In light of this assessment, the need for further legislative changes at EU level could be considered. Such a forum and any assessment could also support harmonization in practice, as outlined below.*
6. *Measures to improve the quality of asylum decision-making across the EU, and achieve practical harmonization at a high standard could in particular include efforts to:*
  - a. *identify and promote exchange of expertise and best practice;*
  - b. *develop common approaches to specific caseloads;*
  - c. *explore the possibility of common systems within the EU for determining applications from particular groups, potentially through pilot projects;*
  - d. *improve cooperation on country of origin information;*
  - e. *share access to key decisions; and*
  - f. *share burdens, including through technical support to assist Member States in achieving durable solutions and in addressing significantly increased or especially complex caseloads.*

7. *A European Asylum Office could be established to provide advice and coordinate practical efforts at harmonization and burden-sharing, including technical assistance.*
8. *UNHCR encourages the Council to develop further legal instruments which are in accordance with the 1951 Convention and other relevant international law. Instruments which could be adopted in the near future include Directives:*
  - a. *governing long-term residence status for refugees and holders of subsidiary protection; and*
  - b. *a single procedure to determine claims for all forms of international protection, which does not undermine the 1951 Convention and contains adequate procedural safeguards.*
9. *UNHCR encourages the Council and Member States to commit to promoting a more positive climate for refugee protection in Europe, including through a more informed and balanced public debate.*
10. *UNHCR encourages the Council to affirm the need for measures to help refugees to integrate in their new homes, taking into account their experiences, special needs and potential contribution to European society.*
11. *The Council should ensure that measures on border management and procedures, and other measures to combat irregular migration, human smuggling and trafficking, are designed and implemented in a protection-sensitive manner, which does not deprive the right to asylum of practical meaning. Persons in need of international protection should not be prevented from accessing Member States' territory and asylum systems.*
12. *Member States should further ensure that border personnel receive appropriate and regularly updated training on how to integrate international protection and other human rights concerns into their work. Interpreters and counsellors should also be available to assist in identifying promptly persons seeking international protection, persons with special needs, and others, and to advise them accordingly. Joint pilot efforts could be initiated in this regard in the context of increased cooperation in the area of border and migration controls, including joint screening and counseling.*
13. *UNHCR urges the Council to commit itself to multilateral efforts to deal with the problems created by irregular movement across sea borders, in full respect for the right to seek and enjoy asylum from persecution. UNHCR would be pleased to provide a forum for consultations on a Mediterranean strategy in particular.*
14. *UNHCR encourages the early adoption of a Directive on minimum standards for return which:*
  - a. *ensures that the return of people not in need of international protection and who have no compelling humanitarian reasons to stay is in line with human rights obligations and other relevant safeguards, and*
  - b. *takes into account international protection standards for asylum-seekers who are returned without a substantive examination of their claim, because their claims are inadmissible pursuant to an agreement on determining responsibility for asylum claims or application of the "safe third country" concept.*

15. *UNHCR further calls on the Council to ensure that readmission agreements include clear provisions and safeguards in line with international protection standards on account of their potential use to return asylum-seekers whose claims have not been determined on their merits. UNHCR would appreciate being closely associated with the negotiation of such agreements, in recognition of its mandate and legitimate specific interest in the matter.*
16. *UNHCR encourages a close “cross-border” dialogue on asylum and migration issues and the establishment of multilateral processes and structures to promote international protection and durable solutions, and would be pleased to support such a dialogue.*
17. *UNHCR further encourages the EU and Member States to engage actively in building the capacity of neighbouring States in the areas of asylum and migration, and to promote the rule of law and adherence to the 1951 Convention. It further calls on the EU and Member States to support neighbours in providing access to durable solutions, including through resettlement in the EU.*
18. *UNHCR urges the Council to reinforce its commitment to strengthening the international protection regime, as well as efforts to address the root causes of flight and onward movements of refugees and asylum-seekers, and to continue the EU’s active engagement in UNHCR’s “Convention Plus” process.*
19. *UNHCR recommends that the European Council commit itself to supporting enhanced efforts to provide refugees with timely durable solutions, including through the appropriate targeting of EU development assistance.*
20. *UNHCR strongly hopes that the European Council will ensure there is effective coordination among EU initiatives in the area of freedom, security and justice; external relations; humanitarian assistance, and development.*
21. *UNHCR encourages the Council to pursue an EU resettlement programme which will expand the opportunities for resettlement to the EU, and which complement national programmes and other multilateral efforts in the field.*

UNHCR  
September 2004