



STRENGTHENING THE TAMPERE PROCESS

UNHCR'S RECOMMENDATIONS TO THE LAEKEN SUMMIT (December 2001)

I. INTRODUCTION

1. The special meeting of the European Council on 15-16 October 1999 in Tampere was a landmark in the development of common asylum and migration policies. The Tampere Council underscored that the freedom, security and justice enjoyed by citizens of the European Union must be accessible to "those whose circumstances lead them justifiably to seek access to [the Union's] territory."

2. The United Nations High Commissioner for Refugees (UNHCR) hopes that the Laeken European Council will give further impetus to the development of a common European asylum system based on, as proclaimed by the Tampere Council, the "full and inclusive application of the Geneva Convention" and "the absolute respect of the right to seek asylum." In this 50th anniversary of the 1951 Convention, UNHCR calls on the Laeken Summit to reaffirm the primacy of the Convention and its 1967 Protocol for the international refugee protection regime.

3. The Laeken Summit takes place at a time of mobilisation of concerted action at the European and global levels to combat effectively international terrorism. UNHCR recalls that the 1951 Convention does not offer a safe haven for terrorists, nor does it extend immunity from criminal prosecution. In fact, the Convention offers States the necessary tools to exclude from refugee protection those guilty of terrorist acts.

II. DEVELOPING THE COMMON ASYLUM SYSTEM

4. UNHCR notes with appreciation that the Commission has put forward the entire set of legislative proposals in the field of asylum set out in Article 63 of the Amsterdam Treaty. UNHCR also welcomes the adoption in Council of two asylum-related Community measures, namely, a Council Decision establishing a European Refugee Fund and a Council Directive on minimum standards for giving temporary protection. With the Laeken Summit taking place half way the five-year transition period set by the Amsterdam Treaty for the establishment of the area of freedom, security and justice, greater political resolve is required to achieve the Treaty's objectives and timetable.

5. In its comments to the various asylum-related legislative proposals from the Commission, UNHCR has indicated how full compatibility between the key provisions of the proposed instruments and international standards could be ensured. UNHCR therefore reiterates its call on Member States to show strong

commitment so that the instruments to be adopted in Council will be based on high protection standards meeting the requirements of justice for refugees. The result of Council negotiations must avoid the lowest common denominator of protection.

6. The development of a common asylum system should have as its priority focus a harmonised interpretation of the refugee definition within a full and inclusive application of the 1951 Convention. A common understanding of who qualifies as a refugee and who does not should inform all other elements of the common asylum system. UNHCR hopes that the Laeken Conclusions will provide policy guidance for the negotiations of the future Community instrument on minimum standards for the qualification as a refugee or as a beneficiary of subsidiary protection.

III. MANAGING MIGRATION FLOWS

7. Irregular migration is of concern to both receiving countries and countries of origin. The issue of irregular migration is also currently entangled with that of asylum. UNHCR therefore has a legitimate interest in ensuring that the problem of irregular migration is effectively dealt with in a way that upholds refugee protection principles while addressing the legitimate concerns of European States.

8. UNHCR hopes that the Laeken Summit will provide political guidance and set policy orientations for constructive immigration policies for labour, family reunification or studies. In UNHCR's view, such policies could result in an easing of the pressure on asylum systems and switch the approach to where it should be: managing migration through migration policies and managing the asylum system through asylum policies.

9. UNHCR also hopes that, as the European Union develops a common policy for labour admission, attention will be given to the skilled and talented refugees in first countries of asylum who can make a positive contribution to the labour market of the Union. A special resettlement quota would simultaneously serve economic, humanitarian and migration management objectives.

IV. THE EXTERNAL DIMENSION

10. UNHCR notes the increased attention for the development of the external dimension of the European Union's policies and practices. UNHCR welcomes such development and calls on the Union to include a meaningful asylum component in EU assistance programmes for third countries. UNHCR believes that assistance to, and co-operation with, third countries in asylum and migration matters must be based on a proper identification of the needs and priorities of these partner countries. UNHCR stands ready to assist in developing more successful programmes aimed at ensuring protection and achieving solutions.

11. UNHCR hopes that the Laeken Summit will call on the candidate countries in Central Europe to strengthen their legislative and administrative arrangements in order to ensure that their asylum systems meet European and international standards. Since the candidate countries may not have adequate means to achieve

these objectives and thereby transform themselves from mere transit points to truly refugee-receiving countries, further pre-accession assistance from the EU is needed -- including increased financial support to UNHCR's current and planned capacity-building activities in those countries.

12. As acknowledged by the Tampere Summit, a comprehensive approach is key to a common European asylum and migration policy. UNHCR believes that the EU High Level Working Group on Asylum and Migration can contribute to the implementation of comprehensive, cross-pillar EU strategies to address irregular migration and mixed population movements in a protection-oriented manner. UNHCR calls upon the Laeken Summit to provide the High Level Working Group with the necessary political and financial support for a successful continuation of its work.

13. Achieving durable solutions for protracted refugee situations is a central element of an integrated approach to forced population displacement. UNHCR has appealed to States world-wide to support its efforts towards durable solutions for refugee situations: voluntary repatriation to the country of origin, local integration in the countries of first asylum or resettlement in other countries. The political, financial and humanitarian costs of not finding durable solutions to the problems of refugees are much greater: refugees will be degraded having to stay in camps for many years or they will be forced to go on the move illegally using criminal networks. UNHCR therefore calls on the Laeken Summit to reserve a certain percentage of EU development budgets for durable solutions in countries of origin or of first asylum in the region, and to promote the ownership of host governments to support these solutions.

14. UNHCR calls on the Laeken Summit to recognise the role of UNHCR as a partner in meeting the challenges of effective refugee protection and solutions. UNHCR and the European Union have a range of common interests: the European asylum agenda, the asylum dimension of European enlargement, the interface between asylum and migration, the prevention and management of humanitarian crises and the provision of humanitarian aid, as well as the active search for durable solutions. It is hoped that the Laeken Summit will give due consideration to the policy and funding considerations of strengthened partnership between the Union and UNHCR.

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