

# IMPLEMENTATION OF UNHCR'S STRATEGY IN THE EUROPEAN UNION

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## SUMMARY

The 're-prioritisation' exercise of 1992 has given rise to a generally positive change in the emphasis of UNHCR's work in the European Union area, and, as a result, UNHCR has gained a more influential position in this part of the world. The Regional Bureau for Europe deserves

recognition for its commitment to a strategic approach, consistent with that of UNHCR at the global level. Nevertheless, greater effort in applying the strategy, and a re-examination of some methods, will be necessary for UNHCR to gain the influence that it seeks on public and political opinion. More attention to country specificities and to the needs of our NGO partners is also called for.

In their choice of main protection objectives, as with their activities as a whole, UNHCR field offices in the EU are broadly consistent with RBE's strategy, but not representative of its full range. Furthermore, the conscious link between regional strategy and country programme is less than explicit in the perception of many staff in the field.

Considerable progress has been made in reducing the time spent on routine individual casework, but several offices in the EU could do more in this respect. There are also wide differences among staff and partner agencies in their understanding of what this part of the strategy aims at.

- . *RBE and the individual Representatives should resolve the continuing uncertainties within a conceptual framework that takes into consideration both the type and the origin of enquiries.*
- b. *The further reduction of time spent on individual cases should be tackled in a spirit of local capacity-building. Support from Headquarters is needed for the build-up of local and regional databases and websites for lawyers and NGOs.*

Participation in refugee status-determination procedures is not a necessary condition for UNHCR to exercise its monitoring responsibilities under the 1951 Convention. On the other hand, where it still takes place, UNHCR participation in the procedures does have a positive impact on national policy and the number of persons granted protection.

- . *UNHCR should consider re-entering the procedure in Portugal.*
- b. *UNHCR's participation in the status-determination procedures should be funded by the host Government, on the basis of 'additionality.'*

Advocacy is firmly at the top of the agenda in most of the UNHCR offices in the EU. However, results in this area still depend too much on the personal knowledge and inclinations of the Representative, rather than on organisational training and indoctrination.

- . *UNHCR should improve its ability to assess and quantify the potential impact of its proposals.*
- b. *UNHCR field offices should have access to professional analysis of European politics and public opinion as they relate to UNHCR's concerns.*

While Public Information, especially media relations, are generally well in hand, Public Awareness is a much less developed part of our activities in the EU and suffers from the absence of a common strategy.

*UNHCR needs to better define its ambitions, to encourage more exchanges on the subject, and to clarify the place of 'outsourcing' in its Public Awareness and Constituency-Building activities.*

A strategy aimed at strengthening UNHCR's value as a partner in policy-making will inevitably draw the Office further towards publicly supporting Governments in negative decisions concerning ineligible asylum-seekers.

- . *UNHCR's statements must remain tied, strictly or loosely, to the scope of its Mandate.*
- b. *UNHCR could usefully turn its attention to improving the general state of relations between Governments and national NGOs.*

UNHCR has made progress in ensuring a consistent approach to some of the basic protection issues in Europe today. However, many complaints were voiced by Field Offices, government representatives and even at Headquarters about UNHCR's tardiness or lack of clarity in providing group-specific advice, especially in developing situations.

It would appear that UNHCR staff are most willing to defend a UNHCR policy when they feel that adequate consultation has taken place in its formulation.

- . *Advocacy would benefit from greater consideration of the influences on policy compliance and appropriation within the organisation.*

There are wide differences of opinion within UNHCR about the importance of the EU harmonisation process, relative to national sovereignty in asylum matters.

- . *There should be a stronger consensus on the subject within UNHCR, in the interests of a more effective strategy vis-à-vis the EU.*

To reinforce UNHCR's position as a key interlocutor in the harmonisation process, greater networking and mobilisation of its offices in the EU will be necessary.

- . *UNHCR's Representatives in the EU need to match lobbying efforts in Brussels with more dialogue in the various capitals.*
- b. *A tighter, more selective agenda should be followed with respect to the harmonisation process and our dialogue with the Commission.*

Training is well carried out and occupies a high priority in nearly all UNHCR's country programmes in the EU.

- . *More attention should be paid to monitoring the results of training.*
- b. *Out-sourcing and external partnerships should be further developed.*
- c. *Training should be separately funded by the host Governments.*

UNHCR's new, global policy on the (involuntary) return of rejected cases is more cautious than RBE's original strategy, which has been modified in consequence this year. The new policy is heavily 'situation-specific' and presumably requires that the initiative be reserved to Headquarters.

- . *However, more priority could be given in the field agenda to the promotion of voluntary repatriation.*

The question of migration is virtually absent from the agenda of the field offices and opinion within UNHCR is still too divided on the subject for the field to play a meaningful role. On the other hand, 'solution-seeking' and the 'comprehensive approach' to solving mixed migration flows is high in the priorities of host Governments.

- . *Field representatives should be more involved in the dialogue between UNHCR and EU Governments on situations which offer potential for a comprehensive solution.*

The strategic goal of "relevance" (to the political environment), and the desired outcome of improved protection, call for a revision of some aspects of the strategy's objectives.

- . *Elements which deserve inclusion or greater emphasis in the RBE strategy statement are: the creation of a favourable body of jurisprudence on refugee law, burden-sharing of asylum-seeker flows among the western European states, and collaboration with other agencies of the UN system.*

Shortcomings in the management of the strategic process should be overcome through a more methodical approach to the phases of design, formulation, communication, implementation and monitoring. Implementation of the strategy would also benefit from a greater sense of initiative and responsibility in the field for inter-office collaboration.

- . *The design of strategy should follow a more hierarchical presentation, distinguishing between goals, expected outcomes, practical objectives and means of implementation*
- b. *A more participatory approach is required in the formulation and adoption of strategy*
- c. *Communication and monitoring, on the other hand, require greater inputs from the centre.*
- d. *The realisation of the Strategy via country programmes suffers from a partial understanding of its content and a tendency to 'pick and choose.'*

There are conflicts in perception among the staff over the structural model governing UNHCR's operations in western Europe.

- . *The allocation of roles and responsibilities should be spelled out more clearly.*

The demands made by the Strategy on our field offices in the EU probably exceed what can be met by resources available from General Programmes.

- . *The relevance of UNHCR's activity in the EU to the national priorities of wealthy host states implies that a much greater part of its work in the sub-region should be turned over to the States themselves.*
- b. *The conflict between the demand for expertise and the unavailability of extra posts could also be addressed by allocating modest consultancy budgets to each office for the purpose of research, with the necessary controls in place to ensure that such funds are not used instead for routine activities.*

## I. INTRODUCTION

19. The subject of this review touches inevitably on a number of questions affecting UNHCR's identity and mission in the coming decade. The following report will attempt to deal with them as they arise in the context of UNHCR's activities and ambitions in the European Union area. Among these questions:

- Where does the UNHCR Mandate begin and where does it end?
- What part does UNHCR play with respect to the broad challenge of migration flows and the varied needs for international protection?
- Are UNHCR's representatives primarily advocates or counsellors? What is UNHCR's legitimate function in relation to national policy?
- Who are UNHCR's clients? What is its constituency?

20. Terms of Reference for this Review are to be found in the letter of 9 February 1998 from the Director of Operations for Europe, attached as Appendix I. The study was commissioned from the Inspection and Evaluation Service by the Regional Bureau for Europe in order to review the implementation in the field of the proposals made by the then Central Evaluation Section in its 'Survey of UNHCR Operations in Western Europe' (February 1992), hereafter referred to as 'the 1992 Report'.

21. The 1992 Report argued that UNHCR should give priority in Western Europe to certain 'functional areas,' defined to include advocacy, public information, training and network-building. In what became known as the 're-prioritisation' exercise, the Branch Offices would seek to establish themselves as 'the authoritative opinion on asylum and refugee issues in each country.' As a corollary, it was proposed that 'tasks related to individual asylum-seekers and refugees should in principle be devolved to national organisations and project structures.'

22. In addition to the 1992 Report, two documents by the Regional Bureau for Europe have served as the primary points of reference for this review, namely 'Strategic Directions, 1996-2001' (henceforth referred to as 'SD 96') and 'Strategic Directions, 1998-2001' (SD 98), which incorporate many of the contributions of the 1992 Report. Several references will also be made in the following pages to the 'UNHCR Strategy Towards 2000' and to the recently-issued UNHCR Mission Statement.

23. It was agreed with RBE that the review would cover the full scope of the strategic approach contained in these documents, but a certain emphasis was given to the issue of Branch Office involvement with individual cases. In practice, this element in the 1992 proposals is the one that has required the most adaptation, because of the need to fine-tune the linkage between individual casework and UNHCR's other activities. As will be argued, RBE and its Branch Offices still need to agree on certain definitions of 'IC' work and on the relative priorities which need to be established within this category by UNHCR.

## II. STRATEGY & POLICY

24. During the interviews with UNHCR staff in the course of this review, it emerged that 'strategy' was sometimes used by staff as a term interchangeable with 'policy' or even 'rule.' It will therefore be useful to briefly clarify the assumptions that this report makes about the nature of strategy, and about the differences, as well as the connections, between strategy and policy.

25. A policy can exist in the absence of a strategy. It focuses on a single issue and is inspired by an immediate objective which is seen as worthy in itself. A recruitment policy, for example, can stem from the objective of redressing a gender imbalance in the composition of UNHCR's staff. A policy restricting public statements by staff can be a reaction to the political sensitivities of a host Government. It is in the nature of things that one policy may cause friction with another in the same organisation, without invalidating the reasoning behind either of them.

26. A strategy, on the other hand, should serve as a broad response to a complex of challenges in the social, political and economic environment. A strategy can encompass a number of distinct policies, but these must be consistent with each other and with the whole.

27. In the formulation of a policy, the means to achieve its objective are ideally spelled out in some detail. Exceptions to the policy, including its stated means, usually require explanation or prior appeal. By contrast, a strategy distinguishes between means and objectives, leaves an important degree of flexibility as to the former, and makes logical connections between its various elements.<sup>1</sup>

28. Strategy is based on a specific understanding of the nature of the organisation and its environment. It brings together, in search of a common goal, the people, systems and values of an organisation, seeking to influence all of these. To be successful, it must reconcile external pressures and contradictions, the overlap of systems and the conflicts of culture among staff.

29. Whereas a policy can normally take immediate effect, a strategy requires time to mature in the minds and actions of its agents. Even more than in the case of a policy, strategy fails if it is not elaborated, understood and communicated. The manner in which it is adopted, and thereby the degree of conviction with which it is 'owned' by the staff of the organisation and its external partners, are also critical factors in its success.

### III. THE BACKGROUND AND CHALLENGE

30. Despite the proud record of EU states on asylum, UNHCR confronts some real problems in this part of the world. The identification of these problems in RBE's two strategy papers corresponds very closely with the perspective obtained from the field offices in the course of the review. Among the problems encountered:

- the 'Protection Gap,' as a result of which significant numbers of persons deserving protection do not get it, or receive forms of protection much less generous than that of the 1951 Convention<sup>2</sup>
- at the heart of the above phenomenon, important differences between UNHCR and several national systems with regard to the interpretation of the 1951 Convention, especially Article 1A
- increasingly stringent border controls that threaten to cut off large numbers of asylum-seekers from the chance of receiving asylum

31. One problem in which the perspective of the field seemed partly at odds with that of Headquarters concerned Refugee Status-Determination (RSD) procedures. Despite a high standard overall, several field offices reported deficiencies in the procedures applied in their respective countries.<sup>3</sup> Problems reported included a 'culture of disbelief' in the consideration of claims, poor legal reasoning and the absence of certain procedural guarantees.



32. The assumption that, as 'States of Law,' countries including those of the European Union can be relied upon to correctly apply the letter and spirit of the 1951 Convention, while by no means entirely invalid, has been replaced in UNHCR's emphasis by concern for the 'export' potential of the practices referred to in paragraph 1. In particular, UNHCR has repeatedly called attention in Western Europe to the risk that increasing border controls will be emulated elsewhere, thereby crippling access to protection and asylum. A comprehensive statement of



this argument was made by the High Commissioner in her speech of 29 January 1998 to the Parliamentary Assembly of the Council of Europe.

33. The problems faced by UNHCR in Western Europe are not occurring in a political vacuum. The economic costs of the asylum system, continuing frustrations with the management of the RSD mechanism, and rising public xenophobia, are all pressures that Governments have to contend with.

34. The relative confidence with which most Governments are now facing the asylum situation is due

chiefly to the drop in the number of asylum-seekers in those countries, a situation that is itself only partly explained by the success of border controls and measures to deter asylum shopping and multiple applications. A sudden increase in arrivals due to new conflicts in the world or new tactics by the 'filières' could sharply exacerbate domestic political tensions over asylum.<sup>4</sup>

35. The European Union has made some important steps in the direction of harmonising its asylum practices, a trend which UNHCR is committed to supporting and influencing. Nevertheless, UNHCR's own preference for a harmonisation process that would exert a liberalising influence on the EU has not prevailed against the Amsterdam Treaty's approach of aiming only for minimum standards. Several important ('soft law') recommendations at the EU level have in recent years gone against the position of UNHCR.

36. Although it is impossible at this stage to know the extent of the final outcome of EU harmonisation of asylum law, or the speed with which it will take place, there is no doubt about the commitment of the EU States and their neighbours to collaborate on control measures, with their inevitable impact on asylum.

*Pierre Schori,  
Minister of Foreign Aid and  
Migration:*

**Swedish refugee  
policy must safeguard  
the individual's  
right to sanctuary**

*....part of the support (a  
Stockholm headline)*

#### IV. PURPOSE AND REALISM OF THE STRATEGY

37. The complexity of the political dynamics affecting asylum in Western Europe calls for a strategic response from UNHCR, as an effective means to tackle its objectives on several different fronts. It challenges UNHCR to maintain a coherent institutional approach over a period of several years, extracting maximum advantage from the quantitatively limited and expensive human resources in its offices in the sub-region. It requires UNHCR to effectively coordinate efforts at the country level with those at the level of the EU and other regional institutions. RBE therefore deserves recognition for its commitment to base UNHCR operations in the European Union area on a strategic approach, derived from and connected to the global strategy ('UNHCR Strategy Towards 2000').

38. Both of the two most recent strategy papers tend to identify the fundamental challenge for UNHCR as being in the area of Advocacy: the need to reinvigorate public and political support for asylum in western Europe, not only for its own sake but for the sake of Europe's 'export value' to asylum practices in much of the rest of the world. The RBE strategy usefully defines the overall posture required of UNHCR and its representatives in pursuing their fundamental goals of protection and durable solutions: to be active in policy formulation, to confront the problems, to be realistic and to project UNHCR as being part of the solution.

39. On the evidence gathered in the course of this review, UNHCR should not underestimate its moral assets relative to its ambitions, nor succumb to the oft-heard complaint that it is losing relevance in western Europe. Nowhere else is UNHCR more consistently influential in the determination of national law and policy, not just in the drafting of directives, but in ongoing decision-making.



40. Although it will come as no surprise that some sharp criticism of UNHCR was expressed by several respondents, the overall conclusion was that UNHCR is seen, by Governments as well as by NGOs, as an indispensable partner and interlocutor in the EU asylum debate. In more than one country, UNHCR was even described by Government officials as a necessary interface between the national parties to the debate – a phenomenon quite unique in the UN system.

41. The next chapter makes no claim to being a full analysis of achievements under all aspects of the Strategy – each of these would deserve its own evaluation. It will, however, attempt to assess how well UNHCR, in the EU, is following the strategy and making the best use of its human resources. It will examine the drawbacks and unintended consequences of the strategy, and discuss some possible solutions and adjustments.

## V. IMPLEMENTATION

42. RBE emphasises the progress that has been achieved in developing strategic partnerships in Europe, including a strengthened dialogue with ECRE and the Strasbourg institutions (SD 98, Paras 8, 10 and 11). Interviews with several non-UNHCR respondents bolstered the impression that UNHCR has gained a more influential position in several, primarily inter-governmental, fora in the past few years, and generally in strengthening its credibility and role.

*The challenge is to play an active and relevant role in policy formulation, standard-setting and problem-solving while maintaining a structured supervisory role and, at the same time, retaining a degree of independence vis-à-vis Governments and NGOs.'*  
*RBE, Strategic Directions 1996-2001*

43. Nevertheless, it appears that UNHCR does not yet have an influence and public visibility in the EU countries commensurate with its ambitions. The reduction in individual casework has not always led to a corresponding increase in the more 'upstream' activities (and the field complains that eliminated staff positions have not been replaced with additional resources for these path-breaking activities). UNHCR also needs to make longer-term commitments in such areas as Jurisprudence and the follow-up to the Amsterdam Treaty, before it can lay claim to the policy role that it seeks.

44. UNHCR's ambition to gain more influence on policy development in the EU and its component countries depends on several factors, only two of which are the effectiveness of the UNHCR Representative and the support he or she receives from RBE. Enormous differences exist from country to country in the general attitude to multilateralism, the importance of the asylum question, the degree of civil society's involvement and the type of policy-making bodies and processes that exist. It appears that the re-prioritisation exercise was not always carried out with sufficient regard for national realities, and in a few countries some partners felt that we had lost, rather than gained, in influence, at least vis-à-vis the NGOs.

45. Indeed, it is apparent that the aspect of the re-prioritisation exercise that has worked least well concerns UNHCR's relations with NGO partners. Progress in gaining influence and credibility with this sector has been more uneven than in the case of governments and inter-governmental fora, and it is also apparent that the personality and working style of the UNHCR representative have a greater impact on NGO relations than on governmental relations.

46. Most of the criticism from NGOs focused on UNHCR's current approach to individual casework, but at the heart of the criticism was the perception that UNHCR had distanced itself from its NGO partners. Given that a strengthening of relations with NGO partners was one of the chief aims of the re-prioritisation exercise, it would seem that more attention should have been paid, in the implementation of the changes, to the views and concerns of these partners.<sup>5</sup>

47. On the other hand, the conclusion can be drawn from the interviews that there is still an important measure of untapped potential in Western Europe, in terms of the openness of both governments and civil society, for UNHCR to increase its influence on public and political opinion. As will be discussed in the rest of the report, greater effort and a re-examination of some methods will also be necessary in order to exploit that potential.

### Protection and Individual Casework

## **General Protection Concerns**

48. The Review found that UNHCR field offices in the EU were broadly consistent with RBE's strategy in their choice of main protection objectives, but these were not representative of the full range of RBE's objectives.<sup>6</sup>

49. Field office protection objectives belonged most frequently to the category of general supervision and monitoring, which may be considered as inherent to the RBE protection objectives (SD 98's sub-regional summary mentions supervision only under Advocacy). Specific objectives in this category often referred to the need to ensure proper implementation of recent legislation.

50. Apart from supervision and monitoring, the protection objectives most often stated fell into the categories of:

- changing/developing refugee law or the interpretation thereof by courts and administration (non-state agents of persecution etc..)
- seeing to the rights and needs of refugees (legal counsel, social benefits, freedom from detention)

51. There was a certain overlap in the principal objectives between general supervision and another category, i.e. ensuring access to the territory and to fair RSD procedures. With the exception of two countries, however, offices in the EU countries considered that asylum-seekers, including undocumented persons arriving at airports, had a good assurance of access to the national status-determination procedures. This aspect of UNHCR's objectives is generally faring better than those of access to the territory itself, application of the Safe Third Country principle, and the general quality of decision-making in the RSD procedures. Furthermore, nearly all offices were dealing with important differences between UNHCR and the national authorities over the definition of a refugee.

## **The Approach to Individual Casework**

52. The RBE strategy recognises that UNHCR has a continuing obligation to monitor national and regional developments, and to criticise these if need be.<sup>7</sup> Many staff argue that this obligation, and the Advocacy and Training objectives of the Strategy, require that UNHCR remains involved to a significant extent in IC work.

53. SD 96 proposed that UNHCR field offices should limit their involvement with individual cases to those where 'UNHCR's core mandate is affected or (which) may have important bearing on policy and judicial positions in the country or region concerned.'

54. An attempt was made to clarify this aspect of the strategy in RBE's December 1996 draft 'Note on UNHCR's involvement with individual cases in Western Europe.' The Note concluded that UNHCR in Western Europe cannot avoid involvement with individual cases, but it did not add to the definition of what kind of IC work should be undertaken by UNHCR's field offices. The Note's key recommendation, that 'criteria for involvement with ICs will have to be developed at HQ level' does not appear to have led to further action.

## **Summary Findings**

55. The re-prioritisation exercise of the early 1990s, combined with a number of changes in national legislation, has given rise to substantial changes in the way UNHCR field offices in the EU countries allocate their resources, with nearly all staff reporting marked reductions in the time spent on routine individual cases, including counselling on asylum applications, family reunification, resettlement and voluntary repatriation.

56. Furthermore, it appears that UNHCR has been successful in most countries in ensuring that these changes, rather than leading to a decrease in the quality of service provided to individual asylum-seekers, have been accompanied by effective delegation of tasks to competent, national NGO partners.



57. Although many of the staff and NGO representatives were critical of the manner and speed with which the re-prioritisation was implemented, the results are today considered, by the majority of both UNHCR staff and governmental and non-governmental partners, as positive.<sup>8</sup>

*The case in support of UNHCR's involvement with IC work was expressed as follows by one respondent: 'contact with the daily reality of refugees and asylum seekers is necessary for training ...; the use of Individual Case studies enables specific procedural lapses to be easily recognised. Moreover, intervention in individual cases often results in precedents being set and may even determine future policy. Our credibility is enhanced when we are able to demonstrate an in-depth knowledge of Individual Cases in discussions with the Gov't and NGOs.'*

58. On the other hand, it does not appear that UNHCR has, everywhere in the EU, reached the limits of its potential for cutting back on IC work. The evidence gathered indicates that, in several offices, there is still too much time<sup>9</sup> – depending on the office, from 5% to 15% of the total workload – spent on routine individual cases which the national structures of a developed society should be capable of assisting, with equally good results.<sup>10</sup> The time taken on routine IC work which could be delegated or otherwise rationalised is time lost to activities with a greater potential impact on protection. While the preceding quantification of the time involved may indicate that the problem is not as serious as is sometimes assumed, there is still cause for determined managerial action.<sup>11</sup>

59. An example of the situation described is that at least two Representatives interviewed felt that they were not able to get the right amount of time from their legal staff for work that they considered to be of greater priority (briefs on the legal problems in the country, analytical studies of the national refugee structures etc...). As another, extreme, example, the Refugee Law Training Officer in one location estimated that 90% of her time was taken up with non-training duties, principally IC work.

60. More information on the findings of the Review with regard to individual casework is to be found in Appendix II. The offices which appeared still to be shouldering an excessive burden of individual casework were those in Belgium, France, Germany, the Netherlands, Spain and the United Kingdom.

61. To the extent that the problem could be solved by managerial action, most of these offices were planning or implementing measures to deal with it. However, the Review also observed wide differences among staff and partner agencies, less in their attitude towards this element of the RBE strategy as in their understanding of what it aims at.

62. The re-prioritisation exercise of the early 1990s continues to be identified in some minds with a perceived disengagement of UNHCR from its responsibilities for International Protection in Western Europe (one NGO official asked if UNHCR no longer believed it needed to supervise application of the 1951 Convention in Western Europe). To other minds, the continuing involvement of UNHCR Field Offices with individual cases is interpreted as a habit of second-guessing the judgement of competent, national RSD authorities on the credibility of individual claims. Neither of these perceptions corresponded to the evidence gathered in the review.

63. RBE and the individual Representatives are primarily responsible for resolving the continuing uncertainties on the IC element of the UNHCR strategy in Western Europe. The following section will propose a conceptual framework for tackling the issue and deciding on the criteria to be applied, on the basis of a logical matrix that will take into consideration both the type and the origin of enquiries. Again, more information on the current situation with respect to these two variables is contained in Appendix II.

## **A Conceptual Framework**

64. Before deciding on the extent of 'IC work' that corresponds to a UNHCR office, consideration

should be given to identifying the functional areas, relative to national asylum practices, in which UNHCR's voice must be heard. In these areas, UNHCR's overriding aim is to create favourable, binding precedents for the treatment of asylum claims in national jurisprudence and administrative practice.

65. The functional areas can include:

- interpretation of the 1951 Convention and 1967 Protocol
- assessment of the situation in Countries of Origin, including analysis of the protection needs for ethnic or religious minorities
- definition of Safe Third Countries
- protection needs for special groups such as women, unaccompanied minors and victims of torture and other trauma
- the general quality of decision-making within national RSD procedures.

66. The first three areas in the above list account for about three quarters of all enquiries to Field Offices and should not require an extensive involvement in the details of individual cases.

67. Advice on the needs of special groups certainly requires that examples of individual cases be used to illustrate the argument. However, these examples could come from any country (an argument in favour of more active horizontal contacts among the Protection Officers in Europe) and therefore need not lead field offices into extensive and repetitive casework.[12](#)

68. One can reasonably argue that, of the above functional areas, the last – general quality of the national RSD process – does require significant analysis by UNHCR of the details of individual cases (a problem which will also be discussed under the section dealing with UNHCR participation in national RSD procedures). However it appeared during the review that this argument is sometimes exaggerated by those who favour extensive involvement in IC work. Some appeared to be less than convinced of the need for structures that will, as called for in the 1992 Report, filter information on individual cases before it reaches UNHCR, without prejudicing UNHCR's mandatory responsibility to monitor and advise on the application of the 1951 Convention.

69. Parallel to an analysis by type of enquiry, consideration should be given to the origin of the enquiry. Principal sources for the enquiries stemming from individual cases include:

- individual asylum-seekers or their contacts
- lawyers for the above
- national administrations
- Law Courts
- non-governmental organisations
- other UNHCR Field Offices, often in connection with Resettlement or Family Reunification proceedings.

70. Of the above list, it is generally assumed that a UNHCR Field Office should, as much as its resources allow, respond directly to enquiries from a Court or Government, and it is usually if not always the case that these two sources of enquiries are more discriminating than the others in the type of enquiry that they direct to UNHCR.

71. The other sources account for an average of three quarters of all enquiries to our offices in the EU and should all, in principle (and including other UNHCR offices), have access to national networks before contacting the local UNHCR offices. Furthermore, these networks should be able to handle all but a small number of the enquiries.

### **Some Other Avenues to a Practical Solution**

72. The uneven rate of progress from country to country in divesting UNHCR offices of routine casework is primarily the reflection of differences in the respective national environments, particularly with regard to the capacity of non-governmental networks and the discipline of

national RSD procedures. This requires that the further reduction of IC work by UNHCR offices in Europe be tackled in a spirit of capacity-building rather than through the blind application of rules. It also points to the need for care in assessing the ability of NGOs and other partners in each country to absorb the changes, and the speed with which the changes should be implemented.

73. The Review found no reason to question the validity of the practical solutions proposed in the 1992 Report and the subsequent RBE strategy statements. Today, the most important need for stronger action, as well as for more support and direction from Headquarters, is in the build-up of local and regional databases and websites for lawyers and NGOs, so as to reduce the pressure on UNHCR field offices to deal with repetitive enquiries on points of law or Countries of Origin. Enquiries in these two categories account for more than half of the individual casework performed by field offices. There has, of course, been much progress since 1992 in building up RefWorld and CDR. The main gaps now appear to be in the realm of language-specific and country-specific equivalents.

74. Field offices could do more to standardise their own responses to enquiries and, with this objective in mind, to encourage more contact, including virtual contact, among the protection staff in the EU countries. As will be mentioned in other parts of this report, Field Offices in the EU are still too reliant on Headquarters to take the initiative for organising exchanges among them.

75. Among the potential benefits of greater networking among the offices, there are several useful lessons that can be learned about how to improve the handling of individual enquiries. BO Bonn, for example, seems to be setting the standard in efficiency, even if the overall level of IC work in that office could still be reduced. Among the elements creating the efficiency in Germany:

- An organised network of local lawyers that organises regular meetings among refugee specialists at the provincial and federal levels
- A solid national database of legal cases and country-of-origin information (ZDWF)
- The use by BO Bonn of a registry clerk to screen all enquiries and refer as many as possible to competent, alternative agencies; the clerk also carries out a brief examination of each file she creates, noting its main points, and can handle many of the follow-up enquiries

*Asked why the new approach to IC work was still not functioning properly in one country, a UNHCR staff member offered the following reasons: lack of consultation with UNHCR's partners, lack of clarity with the UNHCR local staff, lack of consideration for the specificity of the national situation, and inadequate language skills within the UNHCR field office. UNHCR had also frequently changed its position on participation in the national RSD procedures, and thus confused the objective.*

- The creation within the Branch Office of a series of standardised replies to certain enquiries.

76. Offices wishing to exert more control over the time devoted to individual casework should also consider keeping regular statistics of enquiries and responses, according to the above parameters of type and origin. The Review discovered that only a few offices – Bonn and Madrid, for example – keep any kind of statistics of IC enquiries.

### **UNHCR Participation in Refugee Status-Determination Procedures**

77. Although little reference is made in the RBE Strategy to UNHCR participation in national status-determination procedures, it is assumed by some that this participation is contrary to the approach of diminishing UNHCR's involvement in routine casework. This assumption was also evident in the 1992 Report, which called for reducing our role in RSD procedures to a level 'consistent with our monitoring needs.'

78. In practice, UNHCR seems to have taken a 'case-by-case' approach in the past ten years, eliminating its involvement with RSD procedures in the Netherlands, sharply reducing it in Belgium, strengthening it in Spain, Greece and Italy, and maintaining it in France. UNHCR has

also agreed to participate in special procedures for airport arrivals in France, Austria and (outside the EU) Switzerland<sup>13</sup>. In overall terms, therefore, participation in national RSD procedures is still an important part of UNHCR's activities in Western Europe.

79. It would seem that the most valid way of assessing the issue is by reference to UNHCR's strategic objectives in Europe. We need to ask whether participation advances these ends or not, and whether there are other, more productive ways to reach the same result.

80. It was found, on the one hand, that participation in RSD decision-making was not necessary for UNHCR to exercise its monitoring responsibilities, provided formal agreements were reached allowing UNHCR to examine the cases and decisions. Germany and Austria are good examples of how UNHCR offices can 'sift through' RSD records in order to isolate special issues and detect general trends.

81. On the other hand, UNHCR's influence on the content of decisions, and more than that on overall points of law and policy, is usually more tangible when it is part of the RSD decision-making structure. The Review concluded that, in those countries where UNHCR was still part of the RSD procedures, participation was making an important contribution to UNHCR's overall goal and to one of its key protection objectives:

- participation afforded UNHCR access to key policy-making structures; indeed, in at least two of the countries where UNHCR is still part of the RSD procedure, there is no more influential policy-making body on asylum than that contained within the RSD structure itself.
- participation also proved to be an effective, if not always quantifiable, means to extend protection to persons who might not otherwise gain it.<sup>14</sup>
- in more than one country where UNHCR had left the procedure, the quality of decision-making was considered by all respondents to have deteriorated, to the detriment of persons genuinely in need of protection.

82. There are also countries (such as Sweden and the Netherlands) where, even in the absence of UNHCR from the RSD procedures, the results of these, in terms of the numbers granted some form of satisfactory protection, are as good or better than where we participate. It is also possible in some countries for UNHCR to have an important influence on policy and law without belonging to the RSD procedure – the same two countries serve as an example.

83. The more important issue in Sweden and the Netherlands is whether UNHCR can stay in touch with developments in the procedure, and thereby to play its corresponding monitoring role. Where possible (i.e. where national rules of confidentiality do not prevent it, as they appear to do in Sweden), UNHCR may consider arrangements for the sharing of records, as in Germany or Austria. It would also be useful to intensify contact with national eligibility officers through seminars and workshops, as is done in Germany.

84. A pragmatic analysis should be applied to the question of whether UNHCR might in some countries resume participating in national RSD procedures. One must also consider the risk of confusion and resentment if UNHCR seeks to re-enter a procedure it has previously left. Notwithstanding this risk, UNHCR should consider re-entering the RSD procedure in Portugal.

85. In Italy, where the procedure is likely to become too decentralised to allow for the present level of participation by UNHCR to continue, it is recommended that we ensure UNHCR's presence in the 'inner council' that will most likely be created to handle questions of policy and interpretation of the law.

86. In countries where UNHCR is part of the RSD procedures, the Review found that its presence is strongly desired and appreciated by the host Governments as well as by the local NGOs. However, the additional manpower that UNHCR needs to maintain for this work is only being compensated for by the host Government in France, and, to an extent, Spain. At a time of serious financial strain on UNHCR, but also for reasons of logic, it would be justified to condition UNHCR's continuing participation in RSD procedures on the provision of funding by the host Government, on the basis of 'additionality.'

87. It is also evident that, where UNHCR is part of the procedures, there is an even greater need than normal for high quality staff and adequate backing from Headquarters, in order to have credibility with the national counterparts. Field staff involved in RSD procedures expressed, on more than one occasion, their disappointment at the relative dearth of IOM/FOMs and other inputs from Headquarters on issues of doctrine – a reflection, perhaps, of diminished focus by UNHCR on what remains, as stated before, an important part of UNHCR's activities in the EU.

### **Advocacy**

88. The RBE strategy for 1996-2001 defines the objective of our External Relations as being to 'improve UNHCR's credibility, relevance and image in Europe with a view to making it a respected partner in policy development in the region.' Seven of the eleven offices visited included advocacy, in at least one form, among their top three objectives. It appeared to several respondents that a cultural change in UNHCR had taken place, in which communication was becoming more integrated into the whole.

89. At the same time, the Review determined that progress in this area has been unequal. The priority and effectiveness of advocacy is still too dependent on the personal knowledge and inclinations of the Representative, with little evidence of organisational training or indoctrination in the subject. Furthermore, Public Awareness is a much less developed part of UNHCR's activities in the EU than Public Information.

### **Public Information**

90. The Review found that most offices were proving effective in handling relations with the media, in keeping with the 1992 Report's recommendation to energise this area of UNHCR's activities. Where this was not the case, decisions have been taken to deal with the problem. It is, however, apparent that individual PI officers tend to separate into those who concentrate virtually exclusively on refugee issues within their respective country and those who concentrate almost entirely on UNHCR activities in crisis situations. Headquarters could usefully provide more guidance in this respect.

91. Several offices are trying to ensure that Public Information becomes more 'mainstreamed' as a part of the work of all the substantive officers, and in particular to open up more communication between the Public Information and Protection staff. Innovative approaches included that of BO Paris, where Public Information is moving in the direction of a total communications strategy, targeting Government and NGOs as much as the media.

92. On the sensitive issue of whether and when UNHCR offices should be willing to go to the media to criticise their respective host Governments on protection issues, the Review found less of a difference among the Representatives than might have been expected. All seemed to accept that such action could be necessary at times, provided that the stakes were important enough and that private persuasion had failed. Another element of consensus which deserves special mention is that Representatives felt broadly supported by Headquarters when it became necessary to voice public criticism of their host country's policies.

93. The key differences emerged over what constitutes a vital issue meriting such a 'last resort,' and how effective and patient UNHCR representatives are in 'pushing' their views in private. There are also huge differences from country to country in the attitude of Government towards the legitimacy of UNHCR's use of the media to advance its views.

94. In a democratic society, the resort to public criticism can be effective, but can also expose UNHCR to the charge of illegitimately influencing election results. Some government representatives also argued that public criticism can make it more difficult to concede a point to UNHCR, for fear of losing face.

### **Constituency-building**

*'UNHCR must broaden and strengthen the basis of its support through an active process of*

95. Several offices visited had little or no activities in Public Information/Public Awareness beyond media relations and attending seminars and other select gatherings (one could also include training as a



*constituency-building, both at the political and public levels...the organisation will only be able to make a real difference to the lives of displaced people if its principles and objectives are shared by other members of the international community.'*  
*UNHCR Strategy Towards 2000*

contribution to Public Information and Public Awareness). The level of communication with political and civil society in general does not meet the targets implied by the overall goals and strategy of UNHCR.

96. The 1992 Report argued that 'UNHCR should make a greater effort to broaden its range of contacts beyond immediate governmental and non-governmental counterparts, and to reach a wider range of people who influence the climate of opinion within which policy is formulated.' Some of the offices visited have taken steps in this direction. Nevertheless, the overall impression

gained from the Review is that UNHCR offices still tend to confine their external working contacts to Governments and a select group of NGOs, and concentrate their relations with the media on current news and controversies.

- RBE needs to communicate a more precise and more realistic definition of its ambitions to address public opinion in the EU.
- The Representatives in the EU countries should do more to encourage each other to broaden their contacts and to exchange views on the selection and treatment of 'entry-points' such as those suggested in the 1992 Report.
- UNHCR needs to clarify its wishes concerning the place of 'outsourcing' in its Public Awareness and Constituency-Building activities, including the part played by national committees such as España con ACNUR (ECA).

97. One aspect of the last point is the relative importance that should be given in Public Awareness to, on the one hand, UNHCR and, on the other, refugees. Another aspect is the confidence with which UNHCR judges the capacity of its own staff, whose other professional obligations so often lead in the direction of confidentiality and discretion, to handle Public Awareness without strong outside support.

98. In those countries where Public Awareness is a significant activity, there is a high degree of similarity in the choice of target-audiences (youth, schools and universities). In general, however, the Review found that there was no common vision of a Public Awareness strategy among the UNHCR offices, nor a clear understanding of the practical implications of UNHCR's desire to use External Relations as a Protection tool.

99. Examples of some of the issues on which there was a lack of common vision include: do we 'preach to the converted' or do we seek to convert our opponents? To what extent should UNHCR delegate the work of Public Awareness to national counterparts?<sup>15</sup> What is the primary aim of Private Sector fund-raising? Must Public Awareness be strictly guided by UNHCR's own policy priorities, or can we accept the value of publicity for the broader objective of Awareness?<sup>16</sup>

100. There was little evidence of action by the field in pursuit of UNHCR's commitment to expose the root causes of refugee flows and to encourage States and other institutions to create conditions conducive to the protection of Human Rights in the world (UNHCR Mission Statement and 'Strategy Towards 2000'). There was even less evidence of action in the field with regard to RBE's sub-regional objective of encouraging States to devote more resources to development in the countries of origin of asylum-seekers.

### **Advocacy Skills and Knowledge Base**

101. Reference has already been made to the lack of training by UNHCR in advocacy and communications skills. Without seeking to turn UNHCR Representatives into Public Relations experts, it would seem that much could be usefully imparted or exchanged concerning the selection of target audiences, how to develop and argue a position, networking and media techniques.

102. Advocacy also requires more information than is at

*'(T)he Office should concentrate more of its energy and develop its competencies in policy advocacy, becoming a qualified discussion partner at governmental and parliamentary levels, and with the institutes of the European Community.'*



present available to the field offices. As stated in UNHCR's 'Towards 2000' strategy statement, 'there is a particular need for UNHCR to develop a better understanding of its environment.' This should be translated into facilitating the access of field offices to systematic, summarised and professional analysis of European politics and public opinion as they relate to UNHCR's concerns. The recent study by the European Commission on the subject of xenophobia is an example of the kind of work that UNHCR could be doing, within the limits of its resources and Mandate.

*RBE, Strategic Directions, 1996-2001*

103. In a similar vein, in order to effectively reconcile our role as advocates with our role as advisors, we need the ability to quantify the impact of our positions. For example, no estimates seemed to exist in the field concerning the quantitative impact on asylum that UNHCR's position on Non-State Agents of Persecution would have, should it be adopted in countries which at present reject it. There appears to be ample potential for estimates, based on a comparative study with countries which accept UNHCR's position. It would seem logical that our discussions with politicians and legislators would be more effective if we could counter some of the more alarmist estimates on this subject.

### ***The Tenor of Advocacy vis-à-vis Governments and NGOs***

104. One of the respondents commented that UNHCR is continually balancing itself between a 'NGO' identity and a 'Government' identity. Indeed, several government officials made comments to the same effect, of an empathetic nature and often expressed in terms of admiration for the organisation's ability to handle the duality in its nature.<sup>17</sup>

105. The 1992 evaluation took place against a backdrop of concerns to the effect that UNHCR might be hindered in its solution-seeking role by untenably extreme NGO positions on International Protection. The Report of that evaluation argued that UNHCR should act to temper the criticism of NGOs against their respective Governments and to 'inject reason into an increasingly prejudiced and polarised debate.'

106. In the course of this Review, several NGO representatives spoke of a moderating trend in NGO positions over the past few years, on such issues as eligibility for Protection and the desirability of repatriation. It appeared that UNHCR had had a positive influence in the shaping of this trend and that NGOs have often come to adopt UNHCR's point of view.

107. The 1992 Report also argued that UNHCR should be ready to speak out in support of government policies that meet with its approval. Several of the government representatives interviewed in the course of this Review urged UNHCR to broaden the scope of its public profile to include more statements of support for government decisions affecting ineligible asylum-seekers.

108. A strategy aimed at strengthening UNHCR's value as a partner in policy-making will involve hard choices on this issue. If at present it would appear that UNHCR could do more to bolster Governments in negative as well as positive decisions, UNHCR's statements must remain tied, strictly or loosely, to the scope of its Mandate.<sup>18</sup>

109. In the coming phase of strategy implementation, UNHCR could usefully turn its attention to improving the general state of relations between Governments and national NGOs (admittedly, not a problem everywhere in the EU). It can be a matter of pride for UNHCR that it has gained the confidence of both sides in an often bitter debate, but a situation in which UNHCR sometimes has to act as an intermediary between national NGOs and their own Government cannot be in its long-term interests. It appears to be the case that, in countries where these relations are currently bad, the Government has not taken into account the moderating trend of NGOs and the genuine desire of these for better dialogue.

### ***Advocacy and Policy-Making***

110. The 1992 Report noted that 'UNHCR must be able to communicate a clear and consistent vision of whom it wishes

*'UNHCR will enhance its efficiency and effectiveness by*

to protect and how it wishes to protect them.' There will probably never be a time when UNHCR's position-development is not criticised, and certainly there were many complaints voiced by Field Offices in this respect, not to mention by senior officials at Headquarters. Government representatives also made the point that UNHCR has to be quicker off the mark in stating its case. Most of the criticism focused on UNHCR's ability to react to developing situations and to give group-specific advice.

*establishing a clearer linkage  
between the formulation of  
policies and the implementation  
of activities.'*  
*UNHCR Strategy Towards  
2000*

111. On the other hand, UNHCR seems to be doing better than is sometimes recognised in ensuring a 'consistent approach to some of the key protection issues in Europe today.' On questions such as the treatment of persons falling outside the 1951 Convention, but nevertheless deserving protection, the present situation is a solid improvement on the one prevailing at the time of the 1992 Report.<sup>19</sup> Furthermore, several government and NGO interlocutors expressed themselves to be broadly satisfied with the availability and clarity of UNHCR positions on protection questions, although some queried the sources of information used by UNHCR in arriving at these positions.

112. The 1992 Report detected a 'lack of communication and cooperation between different elements of the organisation with an interest in the region, coupled with the absence of a systematic analysis of policy options.' Today, the communication between RBE and the Division of International Protection seems quite satisfactory, whereas both complain of the delays in obtaining the approval of other Bureaux on group-specific policies.

### ***Some Influences on Policy Compliance***

113. The assumption that, as civil servants, UN staff will comply with whatever policy is decided on, is inadequate for an agency such as UNHCR, where compliance must lead on to energetic advocacy rather than the mere following of rules. Cultural and functional influences on policy compliance constitute an issue that an agency such as UNHCR might usefully investigate and take into consideration when implementing a strategy.

114. Four elements that, to varying degrees, can influence the willingness of an individual to comply with a policy, and to defend it, are:

- the inherent correctness of the policy, in the individual's judgement
- the clarity with which it is stated
- the extent to which its formulation has allowed for consultation within the organisation
- the endorsement of the policy by the hierarchy.

115. In response to informal, verbal questions on this subject, nearly all respondents said that they were most satisfied with a policy if it had been adopted after adequate consultation, irrespective of whether they personally agreed with it. This was true of all ranks and national origins but was strongest among the middle-ranking staff.

116. Representatives, sometimes without wishing to admit it, tended to put a strong, secondary emphasis on the hierarchical element, stressing the need for firm leadership on policy.

117. Few staff suggested that a policy had to be right, in their view, before they would willingly defend it. It might be supposed that this consideration plays a greater part in influencing people in general than most would care to admit. Nevertheless, the stated preference for consultation leads to the conclusion that, in UNHCR, policy stands a better chance of appropriation and effective implementation by the staff if it has passed through this step.

### **European Harmonisation**

118. In the course of the Review it became apparent that there were wide differences of opinion within UNHCR about the importance of the EU harmonisation process, relative to national sovereignty in asylum matters. The latest Strategy paper pays less attention to the harmonisation process than SD 96, which stated that 'all efforts should be made to establish a coordinated,

concerted, comprehensive approach among offices in the region and increase UNHCR's lobbying capacity in (EU) capitals.' The fact that the Treaty of Amsterdam calls for a five-year transition phase seems to be leading to a decline in UNHCR's interest rather than being taken as the opportunity for long-term planning and mobilisation that it could be.

119. Differences of opinion within UNHCR over the importance of the harmonisation process seem to go beyond the inevitable or useful. There should be a stronger consensus on the subject, if UNHCR's strategy vis-à-vis the EU is to be effective.

120. Resolving this debate does not belong to the Review's objectives. Nevertheless, as already stated, it is at least clear that control measures are very much a matter of collaboration and growing harmonisation among states – and these measures lie at the root of most of UNHCR's continuing protection concerns in the EU.

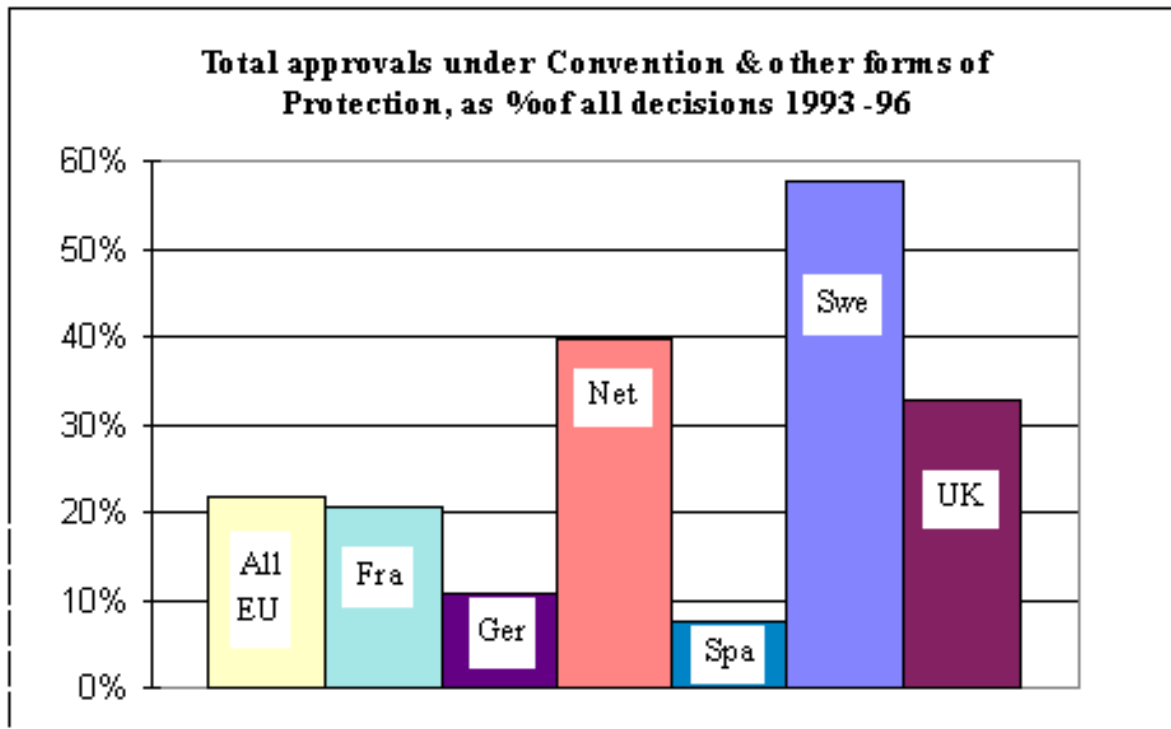
121. One measure of the possible stakes in the harmonisation process is the very wide difference between EU countries that currently distinguishes recognition rates. The graph below shows the proportion of asylum-seekers who received either Convention status or some other form of protection in six EU countries from 1993 to 1996.<sup>20</sup> Crucial to UNHCR's concerns is the possible effect that harmonisation may have on these rates.

122. Although the recent meeting of UNHCR Representatives in the EU may have marked a new beginning in this respect, it does not appear that UNHCR has done all it can to reinforce its position as a key interlocutor in the harmonisation process. Whereas Headquarters and RO Brussels have spent much time and energy on the subject, one does not get the sense of sufficient mobilisation or networking in the EU as a whole.

123. Certainly, the creation of EU focal points in each office and the EU Task Force are excellent examples of horizontal contact and initiative, and both are working very well. RO Brussels is also doing an excellent job on coordinating on the harmonisation issue and, as well as LO Strasbourg, with European institutions in general. However, policy-making and strategic adjustments should involve the full body of Representatives, more than is now the case.

124. Lobbying efforts in Brussels must be matched by more dialogue in the various capitals between the local UNHCR office and its government and NGO counterparts involved in the harmonisation process. Harmonisation as a theme, and UNHCR's objectives with respect to it, should also have a higher presence in its advocacy efforts.

125. Several respondents among UNHCR's partners in the EU hoped to see more active alliance-building by UNHCR in the negotiations over harmonisation. Some countries felt that they deserved a privileged place in UNHCR's dialogue with the EU, due to their share of the asylum burden or their support for UNHCR's positions.<sup>21</sup>



126. The Review's conclusions also concur with those who argue for a tighter, more selective agenda with respect to the harmonisation process and in general to UNHCR's dialogue with the Commission. By this is implied the selection of a short list of subjects which should be pursued over the long term, rather than choosing a fresh agenda for each new meeting of the Council.

### Refugee Law Training

127. Training definitely occupies a high priority in UNHCR's EU country programmes, in conformity with the overall strategy. Target-group priorities were also found to be in line with the recommendations of the 1992 Report.

128. On average, UNHCR offices in the EU devote about one fifth of their time to this activity, with most of the variation around this average corresponding to the perception of needs within each country. Only three offices devote significantly less time to training than the average.

129. In two offices – ROs Stockholm and Vienna – it would seem that more could be achieved if UNHCR could overcome a certain resistance, on the part of the Austrian and Scandinavian authorities, to the idea of training by 'outsiders.'

130. The decision to strengthen training activities in the EU was largely motivated by the objective of delegating routine IC work to other agencies. Although the results were difficult to prove in terms of cause and effect – so many are the other factors involved in delegating IC work – the converse did appear to hold true. The single most important predictor of the extent to which offices can actually carry out training is their success in delegating routine IC work – where training achievements are low, the reason most often is that Training Officers are too taken up by their other Protection functions, notably individual casework.

131. Another element in the more successful training programmes seems to be the ability of field offices to quantify their target groups for training and estimate the turn-over effect (for example, how many border guards and how often they change).

132. Training programmes in most offices has been entrusted to high-quality and relatively senior staff, in further conformity with the 1992 Report's proposals. However, it is also the conclusion of the Review that field offices could do more to build outside partnerships and identify out-sourcing solutions, without disappointing the obvious demand among Government and NGOs for training by UNHCR itself.

133. In the same line of thought, it would seem logical that UNHCR act on the principle that much

of these training activities, in wealthy donor countries, should be separately funded by the host Governments, under the principle of additionality. As will be discussed further in this Report, it would be in UNHCR's interest to do more to guide and encourage its Representatives in local fund-raising for their own respective programmes.

134. Where UNHCR's training programmes in the EU appear to be weak is in the formal monitoring of their results. Only three offices reported any significant, structured activity in this respect. Opportunities for such monitoring are available. For example, even where UNHCR is not a part of the RSD procedures, it frequently has permission to observe interviews by the national decision-makers, who themselves are or can be the beneficiaries of UNHCR training.

### **Return of Rejected Cases**

135. The observations made in the 1992 Report remain valid concerning the frustrations of many Governments over their practical inability to deport rejected cases, and the poor response to voluntary repatriation campaigns. The inclusion of this element in the RBE strategy therefore seems an appropriate response to the concerns of one of UNHCR's principal clients and partners in protection.

136. Not surprisingly, opinions collected in the field varied sharply over the assumption made in the strategy, to the effect that a more reliable system for returning rejected cases would lead to an easing of border controls and other restrictions on asylum.

137. No Representative included this element of the RBE strategy among his/her CMS objectives or key goals for the office, and significant interest in this area was limited to France and the Netherlands. This in itself need not be a problem, if one accepts that the situational approach contained in the global policy statement on the subject (Autumn 1997) – a commendably lucid and comprehensive document, which benefited from extensive consultation – implies that Headquarters should be in the pilot's seat. The Autumn 1997 statement is also more cautious than that contained in SD 96 (paragraph 20), a reality recognised in the references to the subject in SD 98.

138. On the other hand, several field offices stated that they saw far more of a role for themselves to play in the promotion of voluntary repatriation, and this aspect could be given a higher priority in their strategic agenda.

### **Migration and the Comprehensive Approach**

139. Echoing the UNHCR global strategy, SD 98 speaks of the need for a 'comprehensive European strategy encompassing the entire continuum of forced population flows, from their causes to their eventual solutions.' It describes what the outcome of such an approach would be<sup>22</sup>, even if it does not clarify the nature or feasibility of the ideal strategy, the solutions it will advance and the means to address them. Compared to SD 96, it also seems to drop this issue from the agenda for Representatives in Western Europe.

140. Interviews with government officials in the course of this exercise have demonstrated that 'solution-seeking' is very high in their list of priorities. It would therefore seem appropriate to give our representatives in the EU more of a role in the dialogue between UNHCR and Governments on this subject. The same considerations apply to UNHCR's global strategy of bolstering protection principles by 'initiatives to resolve existing refugee situations and to avert new population displacements.' The stated linkages do not seem to have a place in the interaction between UNHCR's Representatives in the EU and their respective host Governments.

141. The question of migration is virtually absent from the agenda of the field offices. SD 96's statements in favour of UNHCR helping Governments to cope with 'mixed migration patterns' have been radically cut back in SD 98, wisely so since it seems from the recent Representatives' meeting that opinion is still much too divided on the subject within UNHCR.

### **Necessary Additions**

142. There was broad agreement among nearly all those interviewed, at Headquarters as well as in the field, that one of the keys to UNHCR's objectives in the EU is the development of a solid

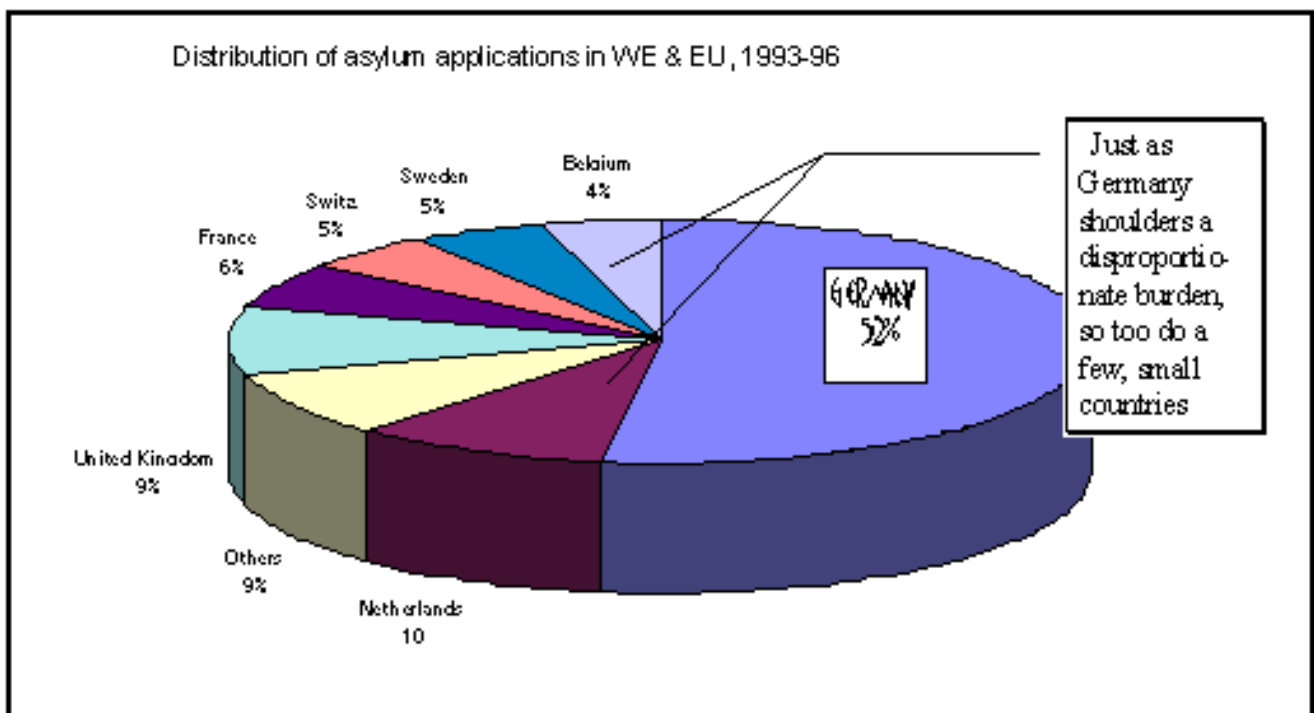


body of jurisprudence in favour of a liberal interpretation of the 1951 Convention. The exceptions were in countries where the courts and administrative tribunals, for one reason or another, had little say on asylum matters or where the principle of judicial precedent was not well developed.<sup>23</sup>

143. However, specific mention of the search for favourable, precedent-setting decisions in the courts and Administrative Tribunals is missing from the original Strategy, and only mentioned in passing in SD 98 (although it has now been highlighted as one of the summarised objectives for the sub-region). It would appear that more discussion and planning need to take place on this subject. As with the question of harmonisation of European refugee law, it challenges UNHCR to organise itself for a long-term objective despite its rotation policy and the short-term focus of much of its activity. The Review noted some resistance to the idea of relying more on outside partnerships, which nevertheless would seem to be part of a solution.

144. Another element, of apparently equal importance, that is missing from SD 96 is that of burden-sharing (or 'responsibility-sharing'). Although the issue is one that sharply divides the EU states, its significance to UNHCR's goal of 'relevance' is undeniable. Given that:

- one of the key actors in EU policy-making on asylum matters is Germany
- half of all asylum-seekers in Western Europe are in Germany
- Germany has strongly indicated (as its representatives stated on several occasions during the Review) that there can be no liberalisation in German asylum practice, nor progress on EU harmonisation of asylum law, without burden-sharing,



it is surely necessary for UNHCR to develop both a clear position and an active participation in the debate on this issue.

145. SD 98, unlike its predecessor, does mention burden-sharing, but dialogue and discussion are still Headquarters-based. In the interests of credibility, both for the policy and for themselves, Representatives should also be able to speak on the subject with their host Governments.

146. The UNHCR strategy for Western Europe is also noteworthy for the absence of any reference to inter-agency collaboration. UNICEF, for example, is not mentioned as a partner on refugee women and children. In all countries it was recognised that UNHCR is significantly behind UNICEF in public 'brand-awareness,' and thus it would be to UNHCR's advantage to seek a synergetic relationship with UNICEF in advocacy as well as in the application of better standards of treatment for vulnerable asylum-seekers.<sup>24</sup>

147. Another area worthy of mention in the strategy would be collaboration with OCHA on



advocacy in favour of the protection of humanitarian workers in zones of conflict.

## VI. MANAGEMENT OF STRATEGY

### Concept to Implementation, and Beyond

148. In its first two strategy reviews since the time of the 1992 Report, RBE adopted the approach of a 'rolling' 5-year strategy. However, this year's review (the third since 1992) covers only three remaining years (1998-2001). RBE should consider reverting to the practice of a five-year 'rolling' strategy that is renewed every two years, after appraisal of both content and success in implementation.

149. The review found strong adherence among UNHCR staff in the EU to the idea of having a strategy, as defined earlier in this report. When asked if a strategy, as opposed to a collection of appropriate policies, was important to UNHCR operations in the EU, nearly all respondents insisted that it was (this also, emphatically, held true for several government representatives, who stated that a strategy, made public by UNHCR, would help in the dialogue between UNHCR and themselves).

150. Nevertheless, the Review also found that there were many shortcomings when it came to translating the notional commitment to strategy into an effectively managed process. For UNHCR to advance further towards a strategically-driven modus operandi in the EU, certain improvements should be considered which can be categorised according to certain phases, namely: design, formulation and adoption, communication, implementation and monitoring.

151. Design: SD 98 does not fundamentally change the strategy laid out in 1996, but its presentation is much improved. In particular, the new document is clearer in establishing the connections between the various aspects of the strategy. Nevertheless, the new statement could benefit from a hierarchical presentation that distinguishes between goal, objectives, means and partnerships. An example of how such a presentation might look is given in Appendix III. It has the advantage of giving a better picture of the balance between the various elements. For example, it emerges more clearly in this presentation that the advocacy element is longer on general expectations (Outcomes) than on specific targets (Objectives).

152. Formulation and adoption: while improvements have been made in design, the adoption process seems to have gone in the opposite direction, with no discussion among staff prior to SD 98 being issued. If the observations made earlier in the report concerning policy compliance in UNHCR can be applied to the ownership of strategy, it would appear that consultation is a necessary step. RBE was apparently under pressure to quickly update its strategy, and has invited comment on the new text from its Representatives. The fact that no comment has been received in the two months since then is perhaps a sign of weak interest on the part of the field, but perhaps also of disaffection from a text that was issued without prior discussion.

153. In either case, it follows that the formulation and adoption phase requires a more structured and participatory approach. A meeting of field Representatives every two years to review the 'rolling' strategy should not be an impossible burden. It would also be very useful in such a meeting to ensure the presence of an outside moderator or assistant to help keep the meeting focused on the strategic issues rather than on current affairs and complaints.

154. Communication: however good in design, a strategy will not serve its purpose if it is not fully understood by the staff who must apply and defend it (on the assumption that even the best process of adoption cannot fully involve all the staff – the reality of rotation is enough to ensure that). The Review found that, among staff who had been posted to an EU country in the previous twelve months, virtually no one had seen SD 96 or its predecessors, and the understanding of UNHCR's strategy, among recently-assigned staff, was at best partial and derived from casual comment by colleagues. At least four offices had no copy of SD 96 when the review started.

155. It goes almost without saying that Representatives and other senior staff must receive a thorough briefing at headquarters before taking up their assignments, particularly on the regional and sub-regional strategy within which they will be expected to

*The more strategies and policies are clearly understood, the more consistent and effective will*

operate, and that the requirement for departing Representatives to draw up a Handover Note must be strictly observed. Now that a general training course for UNHCR Representatives has at last been introduced, it should provide an additional opportunity for familiarisation with the global, regional and sub-regional strategies.

*be the framework of  
enterprise plans.'*  
*Koontz & O'Donnell, op. cit.*

156. Implementation: while most of the individual objectives of the RBE strategy have been adopted by most of the field offices, with at least some successes in each case, the conscious link between action and strategy is less than explicit. Whether positive or negative, staff awareness of the strategy tended to focus only on specific aspects of it. If we accept that a strategy is more than the sum of its parts, the tendency of staff to 'pick and choose' among the objectives, or to mistake parts of the strategy for the whole<sup>25</sup>, are some manifestations of the problem.

157. Implementation of the strategy would also benefit from a greater sense of initiative and responsibility in the field for inter-office collaboration. By comparison with some of the requirements of the strategy, the culture of UNHCR in the field still seems too centre-dependent, waiting for Headquarters to take the initiative on inter-office contacts.

158. This report has already praised the growth of horizontal contacts up to a certain level among the UNHCR offices in the EU, but the overall level is still insufficient, especially among the Representatives. For example, it appeared that only one Representative had used his travel budget to visit the UNHCR offices in neighbouring countries and RO Brussels. Six heads of office are within two hours' train journey of each other but have never found an occasion to meet informally for a day. The Country Operations Plans (COPs) could further the objective of communication if they were copied by each Representative to other offices in the sub-region.

159. Monitoring: apart from communication, the most critical area for improvement in the management of strategy seems to be that of follow-up. There is need for a more structured process of collective and periodic examination of the effective implementation of the strategy. Granted that there is a limit to the number of meetings that can be held, RBE should consider using the existing CMS and COP mechanisms to monitor implementation. Both office objectives and Representatives' objectives could be stated within a framework consisting of the sub-regional strategy. As mentioned previously, Representatives' CMS objectives are not inconsistent with the Strategy, but they are not in reflection of it either.

160. It was noteworthy that staff at several offices considered that the COP process was being well used to foster discussion and analysis about objectives and methods in the respective country. If the reasons why a strategic approach is followed more assiduously within offices than in the sub-region as a whole seem obvious – more contact, more intimacy – this should serve, not as an admission of defeat, but to encourage RBE to find ways to improve both dimensions within the sub-region.

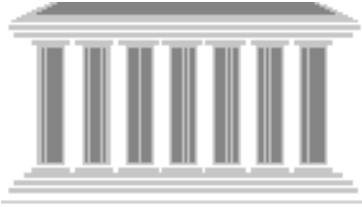
161. A final word on this subject must be reserved to the general tone that was evident in some of the discussions on strategy in UNHCR councils. There is need for more neutrality and discipline in language. To use, at the outset of discussion, terms such as 'pro-active' to describe one of two options is to preclude any reasonable discussion of the other.

## **Images of Organisation**

162. In discussions on the management of strategy, both Headquarters and field staff seemed to display rather contradictory attitudes. Statements in favour of greater delegation to the field were often combined with calls for stronger central leadership, without clarity on how these two attitudes could be reconciled.

163. Furthermore, while staff in the field voiced a desire for more dialogue on strategy, RBE officials at Headquarters described instances in which the field had failed to provide any comment on important issues.

164. At the heart of these contradictions, it seemed, was a difference over the basic organisational paradigm in Western Europe. Several references were made by staff to the existence of a 'flat' UNHCR

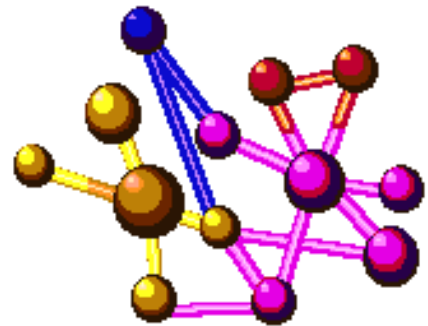


organisational structure in the EU countries. This was apparently understood, both at Headquarters and in the field, to mean the abandonment of a hierarchical, compartmentalised model of organisation, a model that can be represented by the 'Greek Temple' image at left. In it, the pillars represent the functional and geographic divisions of the organisation and a 'top-down' system of decision-making.

165. In partial defence of a model that is usually derided, it should be said that the 'Greek Temple' is a perfectly appropriate representation of some aspects of UNHCR's activities in the EU. In particular, UNHCR's supervisory and normative functions in the EU, including participation in Status-Determination procedures, require a hierarchical approach to ensure exactitude and consistency in the elaboration of legal positions.<sup>26</sup> However, the emphasis in the EU strategy on advocacy and public awareness in the strategy does appear to be at odds with this model.

166. Exactly what is meant by the 'flat' structure, in terms of staff relationships and the division of responsibilities, is still unclear and could be elucidated by reference to other, paradigmatic images.

167. Some staff felt that Headquarters should focus on 'facilitation,' implying an image of UNHCR's structure in the EU like that of a constellation, or the molecule at right – a number of points of varying luminosity or size, connected by lines of communication.



168. Others, however, insisted on the need for stronger input from the centre in managing the strategy. These stressed the role of RBE as an 'animateur', ensuring that ideas are fostered and communicated and providing material support for those ideas to be translated into practice. A star-like image is suggested.

169. From the observations made in this report on the management of strategy, it can be concluded that a stronger central leadership is desirable in some elements of the process – namely, communication and monitoring – while allowing for a more participatory approach in others (formulation and adoption). As for implementation, the principle should always be to delegate wherever possible, but there is also need for agreement on roles:

which tasks are primarily the responsibility of the Country Offices, which are those where RO Brussels serves as leader/coordinator, and which are those where the initiative is reserved to Headquarters?



170. In summary, it would appear that the appropriate organisational image for UNHCR's structure in the EU countries is that of the wheel (left), combining a strong centre with a broad circle of lateral communication.

### Resources

171. The Review found that, to a high degree, UNHCR's offices in the EU countries use their human resources wisely. Nevertheless, considering the intellectual complexity of asylum issues in the EU, it seems highly unlikely that the demands on our field offices for relevance and influence on national policy can be adequately supported by resources from General Programmes.

172. As a clue to a solution, or at least to a better way of handling the problem, the Review noted that, in several instances, activities that might logically be funded from special allocations, on the basis of additionality, were being absorbed by the normal operational and administrative budget. Apart from the cases already mentioned – training and UNHCR participation in RSD procedures – examples include the research that our offices undertake into the situation of women asylum-seekers in Europe, and unaccompanied minors.

173. The relevance of UNHCR activity in the EU to the national priorities of wealthy host states

implies that a much greater part of its work in the sub-region should be turned over to the States themselves, without any corresponding reduction in the respective Government's contributions to UNHCR world-wide. As also indicated previously, a turn in this direction would entail more responsibility and more empowerment<sup>27</sup> to our Representatives in the EU for fund-raising in favour of local programmes.

174. It would also involve translating a substantial portion of the activities of each office into time-limited projects, with defined and verifiable expectations, much as UNHCR does when it commits funds to operational partners. Quite a few posts already are 'time-limited,' but without a project description or non-salary budget attached to them. The Representatives themselves currently have only the vaguest information as to how staff they supervise are funded.

175. The ambitions of UNHCR's strategy in the EU also place enormous demands on its field offices for expertise and reporting on specialised subjects. In addition to RBE's proposal to introduce a number of non-rotational posts in the sub-region, to be occupied by experts in national asylum issues, UNHCR should allocate relatively modest budgets under the administrative budget (800 line) of each office for the purpose of engaging local consultants in support of policy research. Such funds should ideally be used as seed money, in partnership with local NGOs and academic institutions, and should supplement rather than substitute for the project approach discussed above.<sup>28</sup>

## VII. CONCLUDING REMARKS

176. The concept at the heart of the UNHCR strategy in the EU is a good one, consistent with UNHCR's global approach and appropriate to the political and social environment. Even more than the content of the strategy, what deserves praise is the basic decision to adopt a policy-driven, strategically-oriented course for UNHCR operations. The approach taken passes at least one test of any strategy: does it involve abandoning lower-priority activities?

177. This report has attempted to describe the extent to which the strategy is effectively applied on the ground. It has been relatively sparing in singling out individual offices for praise or criticism, because a visit of a few days is not enough to do justice to the full complex of activities and obstacles that each office has to contend with. Nevertheless, it is believed that the observations and conclusions made in this document are based on valid evidence overall.

178. Beyond examining individual achievements in the strategy, this report has tried to identify more fundamental determinants for the future success of UNHCR in its goals and objectives for the region. They are:

- to strengthen the management of strategy, from design and formulation to implementation and monitoring, via adoption and communication;
- to overcome the tendency to 'pick and choose' among the various elements of the strategy, rather than adopting an integrated and comprehensive approach to implementation.

179. Prescriptions for a 'comprehensive' approach risk asking the impossible of staff, a superhuman expertise in every field of endeavour. This need not be the case. In addition to outsourcing and the building of partnerships, careful selection and blending of skills within an office are part of the solution. But also recognition – one of the most common failures in management anywhere is the lack of enquiry into skills and experience already available among staff.

180. The last words of this report should be to praise RBE again for its commitment to developing an organisational strategy and subjecting it to an outside evaluation, and to thank both RBE and its staff in the field for the excellent collaboration and thoughtful observations offered throughout the course of this Review.

## APPENDICES

### Appendix I

## Terms of Reference

A/To: All Heads of Offices in Western Europe: RO Brussels, BO Paris, LO Strasbourg, BO Bonn, BO Athens, BO Rome, LO The Hague, LO Lisbon, BO Madrid, RO Stockholm, BO London, RO Vienna

De/From: John Horekens, Director, Bureau for Europe

Dossier/File Code: ORM 1-1

Autre/Other code:

Date: 9 February 1998

Objet/Subject: **Review of the Bureau's Strategy Implementation in Western Europe**

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1. As expressed in a number of documents and recommendations in the past five years, the Bureau for Europe has aimed to implement a strategy whereby the UNHCR offices in Europe, more particularly those in the EU, move away from individual casework to place greater emphasis on advocacy, public awareness, training and network-building. The SMC has now approved a review of the implementation of this strategy, as part of the IES 1998 evaluation work programme.
2. The review will examine successful approaches to the implementation of the agreed strategy in the EU offices of UNHCR, as well as examining constraints and obstacles encountered. It will also identify the lessons learned since the strategy was put into effect and seek to re-assess the strategy in the light of any unintended consequences.
3. Work on the review is now underway and will proceed through visits to each of the relevant UNHCR field offices in the coming weeks. In each country, the mission will proceed in a consultative manner, through internal discussions with staff responsible for implementing the strategy, as well as through meetings with key government and NGO partners recommended by the Field Office.
4. The work will be carried out by Hussain Khan, formerly (1988-91) part of the Bureau, assisted by Lowell Martin, Evaluation Co-ordinator, who is expected to participate in the initial missions. At present, country visits are tentatively scheduled as follows:

February	15-18 Athens 18-24 Rome 24-27 Madrid 26-27 Lisbon
March	10-13 London 15-19 Brussels/The Hague 24-27 Paris 30-03 Bonn/Nuremberg
April	05-07 Vienna 07-09 Stockholm

More detailed travel arrangements will follow. I would, however, be grateful if you could confirm availability of key staff on these dates. I would also appreciate your assistance in facilitating the planning of the missions, which will be of benefit to the Bureau as a whole, in developing a strategy for UNCHR in Western Europe.

## **Appendix II**

### Analysis of Time Spent on Individual Casework by UNHCR Offices in the European Union

The observations on this subject contained in the body of the Report, as well as in the following

paragraphs, are based on the self-assessment of the Field Offices in the EU, through questionnaires, and on the interviews carried out in the course of the visits to these offices. It was not in the nature of the Review, nor of the time allotted to each visit, to allow for in-depth examination of the validity of the statements made in the questionnaires and interviews. Nevertheless, the impressions gained were largely in corroboration of these statements. It should also be noted that the Representatives approached the issue in a spirit of objectivity and with a willingness to consider different approaches in managing their respective offices.

1. There is little apparent correlation from one country to another, except perhaps in Germany, between the number of enquiries and the number of asylum-seekers. Offices which seem to receive a disproportionately high number of enquiries, relative to the number of asylum-seekers in the country, are BOs London and Lisbon, while LO the Hague receives a disproportionately low number of enquiries, relative to the caseload.
2. In terms of the total amount of staff time that goes into individual casework, there is considerable deviation from one office to another (the average is equivalent to the full time of about 1.4 staffmembers). BOs London and Paris, and RO Brussels seem to give the most time to this activity, a situation not in proportion to the size of their respective caseloads. BO London makes heavy use of interns for its IC work.
3. There are also wide differences in the efficiency achieved by our offices in the EU (staff time devoted to a set number of enquiries). Bonn appears to be the most efficient, although this is partly explained by a very large gap between the number of enquires per month (470) and those that receive a substantive follow-up (35), compared with a ratio of 1:3 in most offices. This could be interpreted either as the result of the good referral network in Germany or as an indication that steps should be taken to avoid so many unnecessary calls. Certainly, the phenomenon is rooted in the federal, decentralised structure of the German NGOs and the persistence of lawyers in checking with as many institutions as possible. The same considerations, if not the same reasons, apply to BO Rome, which also has a high efficiency rating combined with a low ratio of substantive follow-up to enquiries.
4. At the other extreme, Paris and Brussels appear to have the lowest staff productivity in dealing with enquiries. BO Paris attributes this situation to the heavy weight of time-consuming requests for information and procedural help from other UNHCR offices, work which the BO is now in the process of delegating to its NGO partners. In the case of RO Brussels, the situation appears to reflect weaknesses in the national NGO system but may also relate to the long-standing management and personnel problems which have been the subject of a separate Inspection report. The new Regional Representative is taking these matters firmly in hand.
5. There is relatively little deviation from one office to the other in terms of the source of the enquiries. Those emanating from Government and Courts usually account for one sixth of enquiries (in Paris and Vienna the proportion is about a quarter). Enquiries from lawyers and NGOs usually take up just over half (in Stockholm, the Hague and Bonn the proportion is two-thirds). Direct enquiries from asylum-seekers or their personal contacts take up about a quarter of the enquiries on average, but in Brussels they account for nearly half. No comparative figures were obtained for the number of enquiries emanating from other UNHCR offices.
6. There is even less deviation from country to country in the type of enquiry received. Just over half the contacts deal with Country-of-Origin issues or questions about asylum procedures. In principle, the answers to such questions can be handled by others, but only if UNHCR itself has first communicated its own position. A fifth of the enquiries are on points of law, an area in which UNHCR presumably must be a main point of reference but where a certain amount of delegation is also desirable on the same condition as in the preceding. Finally, enquiries which are more "IC-oriented" – mostly, requests for support against expulsion orders, but also enquiries on social and economic matters – account for about one quarter of all contacts.
7. The percentage of enquiries that receive a substantive follow-up from UNHCR, and the time spent on this follow-up, show a slight, but only slight, bias in favour of enquiries from Governments and Courts, which are presumably more likely only to call on UNHCR when absolutely necessary.



## Appendix III

### Suggested Presentation of RBE Sub-Regional Strategy for Western Europe (Strategic Directions, 1998-2001)

#### **1. GOAL (where does UNHCR want to be?)**

- A solid influence on policy development at all levels in the sub-region
- A strengthened supervisory and advisory role

#### **2. EXPECTED OUTCOMES (what lasting changes does it seek?)**

- A better understanding among the public of the specific needs of refugees, and a clear distinction between refugees and economic migrants
- A coordinated and harmonised approach among states based on the application of internationally accepted protection standards

#### **3. OBJECTIVES (what will its activities target?)**

- Access of asylum-seekers to the territory and to fair, efficient and rapid determination of claims
- The adoption by states of an expanded refugee definition to include persecution by non-state agents
- Counselling, legal assistance, family reunification and repatriation support to be provided to all asylum-seekers and refugees through national organisations
- Fair and equitable systems for the return of rejectees
- Flexible resettlement programmes in Western European countries
- Consistent migration policies in accordance with international legal standards
- A greater allocation of development assistance to regions of origin
- On-going financial support for UNHCR in Europe and world-wide

#### **4. MEANS AND METHODS**

- Ensuring a consistent organisational approach to the key protection issues in Europe today
- Articulating firm and predictable positions which constructively address the legitimate concerns of states, while keeping the protection of asylum-seekers and refugees at the centre
- Contributing to the development of jurisprudence in the field of asylum and refugee law
- Strengthened joint planning and complementarity with NGOs; alternative sources of funding for the latter to allow UNHCR to phase out its assistance
- Limiting UNHCR's intervention in individual cases where UNHCR's core mandate and policy objectives are affected

#### **5. ENTRY-POINTS AND PARTNERSHIPS**

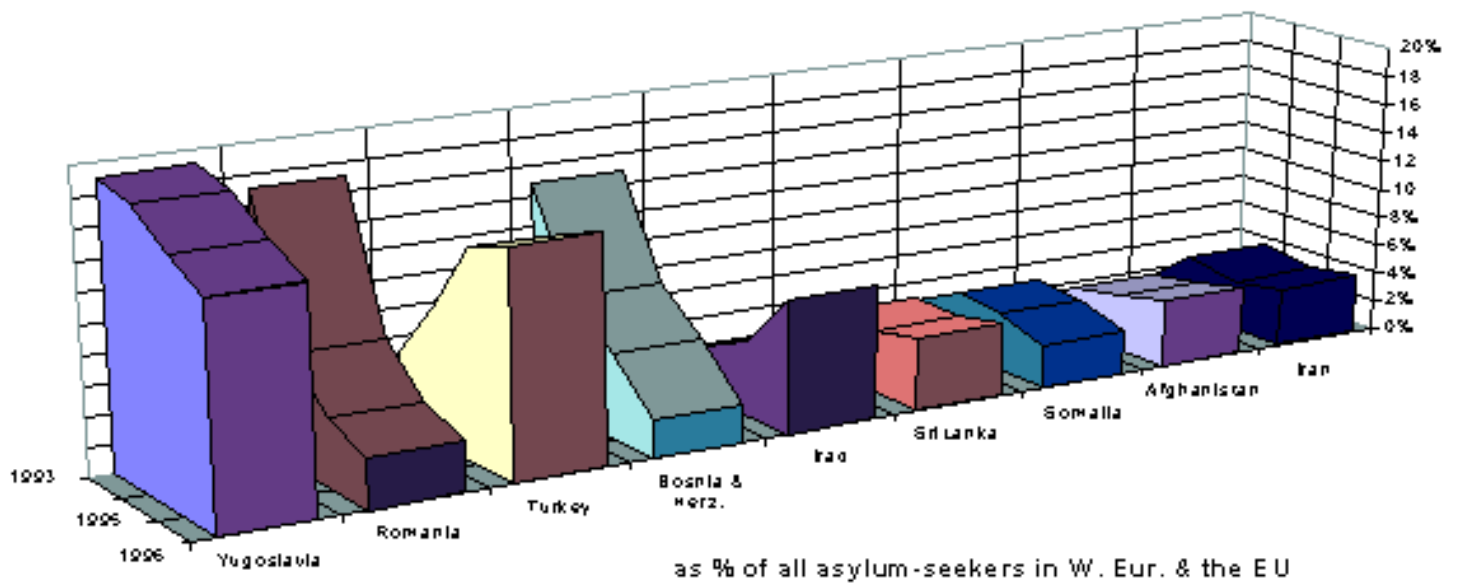
- Governments– EU institutions – Council of Europe – OSCE
- NGOs – Lawyers' Networks
- Media – Academia and Schools.

## NOTES

1. 'The purpose of strategies..is to determine and communicate, through a system of major objectives and policies, a picture of what kind of enterprise is envisioned. Strategies show direction and general deployment of emphasis and resources. They do not attempt to outline exactly how the enterprise is to accomplish its objectives.' Koontz & O'Donnell, 'Analysis of Managerial Functions'.

2. Several respondents disputed the notion that the mass of asylum-seekers have purely economic motives for coming to Western Europe. The following table shows the proportion of asylum applications in Western Europe and the EU constituted by the leading nine nationalities in the 4 years from 1993 to 1996. Together making up nearly two thirds of all applications in this period, they seem to demonstrate a correlation with situations of conflict and/or violation of Human Rights:

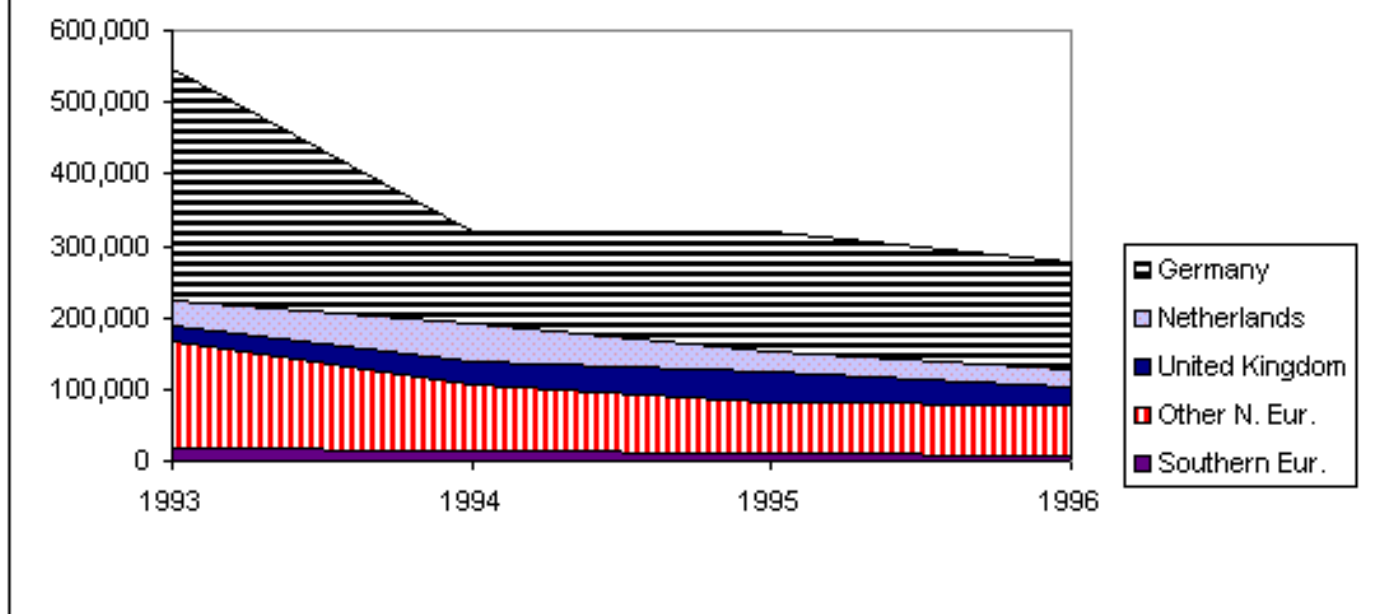
Main origin of asylum-seekers in W.Eur. & EU, 1993-96



3. In one country, for example, refugee status is usually decided on the basis of a single interview, without any prior study of the application, in a crowded room (the option of a further interview is there, but rarely used). The introduction of more sophisticated procedures was under discussion at the time of the Review.

4.

### Asylum applications in WE & EU countries, 1993 - 96



5. It was nevertheless apparent that in most of the cases where the re-prioritisation exercise had placed a strain on NGO relations, these appear now to be on the mend.

6. Objectives relating to resettlement, the reduction of IC work and the return of rejected cases found little or no echo among the principal goals of the field offices

7. On the other hand, in the list of Sub-regional objectives for Western Europe, the 1998-2001 paper refers to UNHCR's supervisory function under 'advocacy and promotion' rather than under Protection, where it presumably belongs.

8. The chief exceptions were to be found among NGO and legal partners in Spain, Belgium and Germany.

9. This conclusion concurs with RBE's own observation (SD 96) that many individual requests to field offices come from 'lawyers, NGOs and national eligibility officers who continue to have difficulties to distinguish between those cases which fall clearly in line with the priorities of the Office and those which do not.'

10. Included in these estimates is the time spent on these tasks by unpaid Interns or other extra-budgetary posts – the argument that our problems in controlling routine casework are solved if we can create a 'free' post in the Field Office is difficult to accept.

11. The RBE strategic objective of limiting individual casework does not appear in any of the Representative's CMS objectives (CMS objectives for 10 of the 11 Heads of Office in the EU were made available).

12. The suggested approach is not intended to deny the fundamental importance of the reliability of the national systems to implement whatever policy points may have been agreed at UNHCR's urging. Nevertheless, where the precedent-following system is weak, there is all the more reason to tackle the problem 'upstream' rather than to indefinitely intervene in individual cases.

13. UNHCR's SO in Nuremberg, while not formally part of the mechanism, is located in the Federal Office which carries out RSD. Its recognised responsibility to monitor the procedure and identify key issues for training and discussion put it in much the same category, strategically, as offices which are formally engaged in RSD.

14. In discussions with the staff of BO Madrid, for example, it was estimated that HCR's presence in the decision-making panel of the RSD procedure accounted for about a quarter to 1/3 of the positive decisions – in other words, asylum-seekers who would not have been recognised were it not for the interventions of

UNHCR in the panel; it would appear that, should UNHCR withdraw from the panel, no NGO would, for the foreseeable future, be permitted to replace it.

15. Among our national partners in promoting public awareness, the Spanish association 'España con ACNUR' has been especially energetic. Its founder and now Executive Secretary, a former UNHCR staffmember, draws the following lessons from her experience in setting up such an entity:

- more important than expertise among the staff and volunteers is experience and contacts, the means to open doors for free services and support
- get a well-known President (celebrity, politically neutral, liberal, well-connected)
- get a good Board, i.e. people who are really going to do the work
- have some staff with UNHCR background.

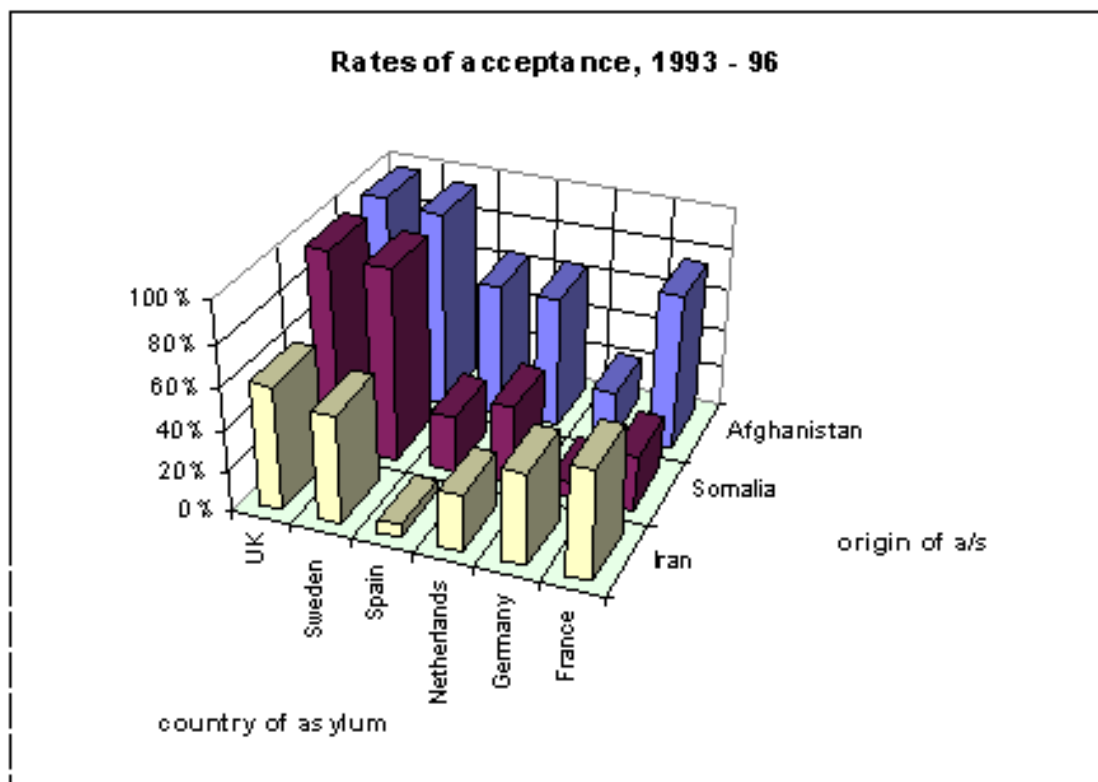
16. One aspect which attracted considerable comment was UNHCR's commitment to emphasise the distinction between refugees and economic migrants. Some staff felt that xenophobia was at the root of the problem and that UNHCR has to tackle the obsession with illegal immigration in general; others felt that UNHCR risked crucifying itself if it were seen to be advocating mass immigration or defiance of the law.

17. A particularly encouraging perspective was that of a high official of a provincial administration, who recalled a degree of suspicion among his colleagues when UNHCR first joined them in debate, but who declared that they now realised that UNHCR is a counsellor of Governments as well as an advocate for refugees – and that it must keep its advocacy role if it is to add any value to the asylum debate in Europe.

18. To take an example from outside the EU, the recent controversy in Switzerland over the mandatory repatriation of Bosnians : UNHCR can testify as to whether or not Bosnians will face persecution on return, but it should not take sides in a debate based on broad grounds of compassion.

19. An exception is the reference to persons in 'protection limbo' in SD 96 (para. 15) and SD 98 (para. 19). It is not clear as to whether we are talking about persons of concern to UNHCR or not.

20. Only the top 41 countries of origin were included in this calculation – those which each had at least 10,000 asylum-seekers in Europe during the period in question. There are, of course, important differences from country to country in the profile of the asylum-seekers, but if we compare recognition rates for the same nationalities, we still detect substantial variations:



21. An official of one, strongly liberal, country spoke almost wistfully of being available to help UNHCR in its negotiations, if UNHCR wanted such assistance.
22. Ensuring protection to those who need it, making a clear distinction between refugees and economic migrants, investing more in solutions, addressing root causes and raising public awareness.
23. This view was not unanimous – a challenging counter-argument was that in Germany, where both UNHCR, national lawyers and NGOs have fought countless legal battles in the Courts over the years, the resulting decisions and precedents have been overwhelmingly negative.
24. This is not to say that there is no actual collaboration with UNICEF – several field offices reported strong links.
25. This tendency is not limited to staff. A number of NGOs clearly believed that the sum total of UNHCR's strategy in Western Europe was to cut their funding and to 'off-load' our IC work.
26. There is nothing inherently right or wrong about any of the images used in this section. At issue is how to represent the optimal 'fit' between strategy, culture and organisational structures.
27. Empowerment would include arranging for field offices to keep a small percentage of the Trust Funds they administer, for purposes such as staff training and temporary assistance related to the TF – as is the practice in UNDP.
28. This idea could, however, be a suitable way of approaching the issue raised in SD 96: 'UNHCR may have to deploy specialists in the field of policy development, migration issues and automation.'