



**Conference on the Implementation and the Further Development of EAC  
21-22 June 2011, Valletta, Malta**

**“Global use of EAC and co-operation with other stakeholders”  
Daniel Endres, Director, Bureau for Europe**

I wish to thank the management of the European Asylum Curriculum (EAC) and its Temporary Implementation Unit for convening this conference, inviting UNHCR to participate.

UNHCR has consistently **welcomed** initiatives for increased quality asylum claim determination. Effective and continuous training of asylum officials is essential to ensure that the rights and obligations in international and European asylum law are respected. The EAC - as a practical tool which can contribute to ensuring quality asylum claim determination - is an important innovation in this area, which UNHCR will **continue to support**.

Training is not only important to **ensure quality decisions**. It is also important to **harmonise** Member States' asylum procedures for the purpose of achieving a Common European Asylum System. As required by Article 78 of the Treaty on the Functioning of the EU, a Common European Asylum System ('CEAS') should, in accordance with the 1951 Geneva Convention, comprise a 'uniform status of asylum, valid throughout the Union' and 'common asylum procedures'. The CEAS should be established by 2012. This has been confirmed by all Member States in the Stockholm Programme (Dec 2009) - and reiterated most recently by the Justice and Home Affairs (JHA) Council that took place the 9 and 10 June in Luxembourg.

Despite its importance, a research UNHCR issued in 2009 showed that training is not always considered as an essential component of the asylum system in the Union. The research focussed on the status of transposition and implementation of the current Asylum Procedures Directive in 12 Member States. Amongst other things, it found out that some Member States did not require interviewers to hold a specific qualification in refugee and/or human rights law or to have relevant experience upon recruitment. In fact they did not demand any minimum educational requirement. In addition, some Member States provided no formal, compulsory training for interviewers and decision-makers upon recruitment.

This raises concerns for UNHCR, because in our view, training is an **essential component** of a well-functioning asylum system that values the quality of its output.

We also believe that training is in **states' direct** interests – including, among other reasons, because it **saves costs**.

In some of the Member States surveyed by UNHCRR, around 20% of the total number of people granted international protection in 2007 initially received a negative decision, which was subsequently overturned at the appeal or review stage. High rates of success in second instance may serve as an incentive for rejected applicants to appeal. This means an increased cost for Member States that are obliged to provide reception conditions and legal assistance. By contrast, high quality first instance decisions are more likely to be upheld on appeal - thus discouraging this practice and minimising related expenditures.

In addition, specialised training of authorities can help ensure that those people who would use the asylum system **without** having a valid protection claim are more **easily and promptly identified**. In such cases, costs would also be reduced and savings made.

Given these and many other benefits of effective training, UNHCR therefore supports the provisions in the recently modified **recast proposal for the Asylum Procedures Directive** which emphasise the importance of **initial and follow-up training** for determining authorities. This proposal reflects the provision of the EASO Regulation which requires the Support Office to establish a European Asylum Curriculum. The topics to be covered in this future Curriculum, as specified in that provision, reflect closely the topics of the existing EAC modules.

[Specifically, these include:

- (a) international human rights and the asylum *acquis* of the Union, including specific legal and case-law issues;
- (b) issues related to the handling of asylum applications from minors and vulnerable persons with specific needs;
- (c) interview techniques;
- (d) the use of expert medical and legal reports in asylum procedures;
- (e) issues relating to the production and use of information on countries of origin;
- (f) reception conditions, including special attention given to vulnerable groups and victims of torture. ]

### **EU *acquis* on asylum as a model for other countries**

The European Union *acquis* on asylum contains a number of **positive standards**. Further amendments are expected to bring it yet **more closely into line with international refugee and human rights law and best practice**.

Because of the high level of development of its asylum systems, many other countries and regions look to Europe as a standard-setter in the area of asylum and international protection. The European Asylum Curriculum may present opportunities to encourage the development of EU inspired good practices and legislation on asylum in states outside the Union.

In this regard, I refer to the collaboration between the **Belgian General Commissioner for Refugees and Stateless (CGRA)** and the **Burundian National Office for the Protection of Refugees and Stateless persons (OFPRA)**. After a request of the Burundian Minister of Interior to the Belgian Secretary of State, a project to support the Burundian Asylum Authority was established. One of its main features was **training for officials, delivered using the European Asylum Curriculum as a tool**. Three EAC modules were translated in French and used for this purpose: the inclusion, evidence assessment and interview techniques modules.

The Belgian trainers **collaborated with UNHCR** in preparation of the training, to ensure that the concepts contained in the EAC would be presented in manner most **relevant to the specific situation of Burundi**, and its national and regional legislation. **Adaptations** were necessary, among other things, because the concept of ‘subsidiary protection’ under EU law is not used in Africa. [By contrast the Organisation of Africa Unity (OAU) Refugee Convention defines a refugee in terms much broader than those provided by the 1951 Convention. ]

In that context it was ascertained that certain parts of the EAC are not relevant for Burundi, and may cause confusion or even undermine positive standards in other regions. I am referring, for instance, to the ‘European’ (or ‘super’) safe country concept; the first country of asylum or the safe third country concepts.

The experience in Burundi showed that the **modular structure** of the EAC allows trainers to **adapt** the content of the education to match the needs of the third countries where the training is held may be useful.

### **External dimension of the EU’s asylum policy**

In the European Pact on Immigration and Asylum (2008) reiterated the value the European Member States see in **close partnerships between countries of origin, transit and destination** of asylum seekers and migrants. With the Pact, Member States committed to (IV (d)) *“strengthen the cooperation with UNHCR to ensure better protection for people outside the territory of the EU”*.

Building on this, the Stockholm Program underlined the importance of building the capacity of third countries on asylum. This priority was reinforced at the JHA Council meeting this month, where the Council recalled its commitment to strengthen the ‘external dimension’ of EU Asylum Policy. In the EC’s 4 May 2011 Communication on Migration, the Commission stressed that *“solidarity and cooperation with third countries in managing asylum and refugee flows is important. In particular, Regional Protection*

*Programmes must continue to be operated. These provide for a broad partnership with countries and regions of origin, in close cooperation with UNHCR, combining dialogue and support for **capacity-building***” and other measures.

The Commission has recommended, among other things, **increased investment** in cooperation with third countries, while confirming that regional protection programs should develop and expand in North-Eastern Africa (including Tunisia, Egypt and Libya).

In this context, where asylum capacity-building in other countries is so highly prioritised by the EU, the EAC is a tool which may have significant potential to support the EU external dimension of asylum.

In developing further this potential, the EASO can address the task it is given in Article 7(2) of its Regulation, providing for it to “*cooperate with competent authorities of third countries in technical matters in particular with a view to promoting and assisting capacity building*”.

### **Co-operation with other stakeholders**

Other stakeholders can also contribute effectively to the further development and use of the EAC. This applies to the EAC's use both within the EU, and potentially in any role that it might play beyond the Union in future. In addition to UNHCR, other specialist organisations - including the Non-governmental network ECRE - have contributed from their expertise and knowledge, not only on the content of asylum law and practice, but also on training techniques and methods. A consultative and open approach to work with such stakeholders can ensure that the EAC will have the best skills and materials available to support its further development.

The achievement of a Common European Asylum System by 2012 requires the adoption of second generation asylum instruments through the ongoing recast process. As the EU *acquis* on asylum evolves, the EAC modules must be updated. The update is also necessary to reflect the evolving case-law of the Court of Justice of the EU, and of the European Court of Human Rights.

The EAC’s current management and development approach includes a periodic revision/update process of the training modules which is carried out by a team of experts. The **co-operation of a reference group is also an important part** both of the drafting and the periodic revision process.

The work of the reference group, which includes EU institutions, academia, NGO and UNHCR, ensures that the EAC has the best skills and material available to support its further development. [It could potentially be involved in other aspects of the EAC’s work, including identification of skilled experts to revise and update the modules.]

Given the expertise and other resources it puts at the EASO's disposal, UNHCR encourages the EASO to maintain cooperation with the reference group in its future arrangements for the EAC.

#### Cooperation with UNHCR Quality initiative

Following the positive output of previous quality projects in the EU, UNHCR in 2009-10 has implemented an EC-co-funded project known as the **Further Developing Quality (FDQ)** project. This initiative aims at examining, assessing and developing quality assurance systems in the asylum procedures of nine Member States (Bulgaria, Hungary, Poland, Romania, Slovakia, Cyprus, Greece, Italy and Portugal). The project also involves the asylum authorities of Austria, Germany and the UK, who provide good practice advice.

The FDQ project in Central Europe involves a targeted monitoring of adjudicators' preparation, interviews and written decisions. It consolidates the internal review mechanisms (Quality Assurance Units) established in recent years, and provides a methodology to guide the future establishment of such mechanisms in other Member States. In the Southern Europe, the project aims to develop actions to address key areas in the claims assessment processes - which can strengthen the quality, fairness and efficiency of asylum decision making.

Both the EAC and the FDQ projects have sought to improve the quality of asylum procedures by developing the capacity and expertise of the asylum authorities.

The two projects offer a number of important tools and methods to aid the development of practical cooperation on asylum between the governments of the participating Member States.

Because of their common objectives, cooperation has been initiated between the two projects. This allows for additional dissemination opportunities for both, and creates the possibility for the national trainers, trained under the European Asylum Curriculum scheme, to become engaged in the quality-related activities of the national asylum authorities.

#### **Final Remarks**

UNCHR believes strongly in the objectives and outputs of the EAC as a key element of the practical cooperation agenda. The existing work of the Reference Group structure has proven its worth. UNHCR stands ready to continue offering its services and expertise as a resource to the continued development of the EAC, once its management passes to the EASO at the end of 2011.