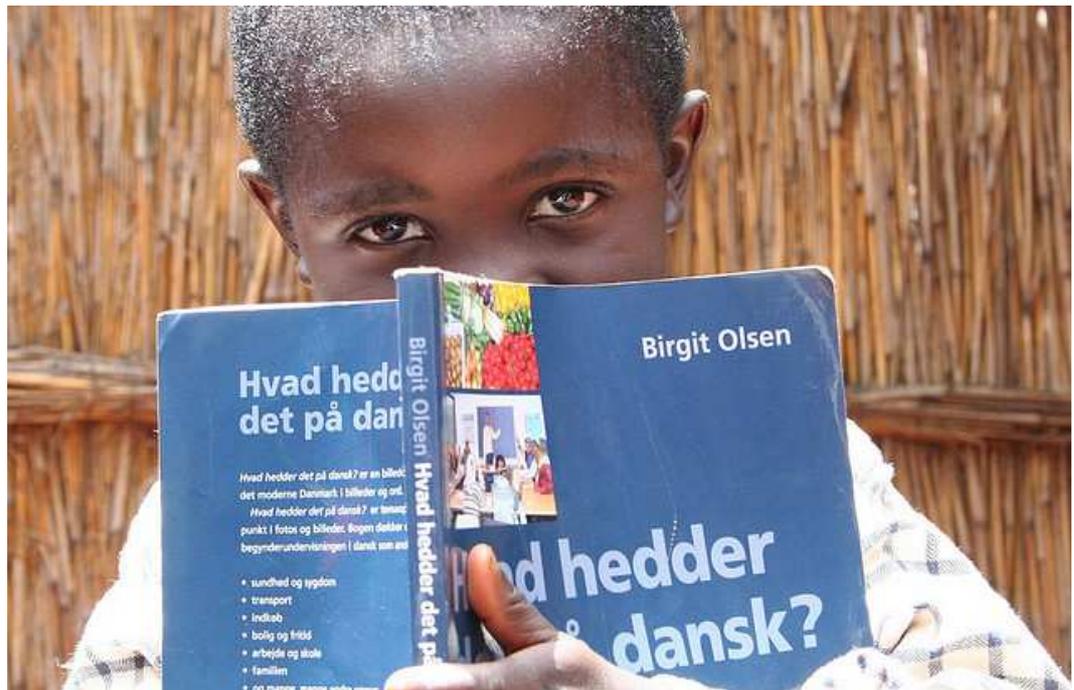


UNHCR's Recommendations to Denmark for its EU Presidency

January – June 2012

Refugee boy in
Dzaleka, Malawi,
preparing for
resettlement to
Denmark. /
UNHCR / J.
Redden



2012 will provide a unique opportunity to advance towards a stronger global and European refugee protection regime. In December 2011, 155 States from around the world met and pledged to improve refugee protection at a Ministerial Conference in Geneva. The Conference, which commemorated the 60th anniversary of the 1951 Convention (and the 50th anniversary of the Convention on the Reduction of Statelessness), adopted a Ministerial Communiqué emphasizing States' commitments to these key international instruments. EU Member States and institutions attended and lent their active support to the process. The conference pledges, declaration, and other outcomes provide a new momentum to work on strengthening refugee protection and actions to enhance international and European cooperation in this field.

With the goal of completing the Common European Asylum System (CEAS) by the end of 2012, Denmark is encouraged to build on this momentum by taking the EU agenda forward during its EU Presidency.

Enhanced Refugee Protection in Europe – 2012 and after

1951 Convention as the basis for the CEAS	The EU Declaration on the 60 th Anniversary of the 1951 Convention, adopted on 28 October 2011 ¹ and quoted at the Ministerial Conference, reaffirmed the Union's commitment to the 1951 Convention and to further develop the CEAS based on high protection standards and fair and effective procedures. In recognizing UNHCR's unique mandate and the importance of the organization's efforts to protect refugees and promote durable solutions, the EU sets out the path for further cooperation of Member States and the EU with UNHCR.
Enhanced solidarity needed	UNHCR hopes that there will be agreement on key elements for a strengthened EU legal framework for the CEAS during the Danish Presidency. There is also a need to continue ongoing practical cooperation initiatives under the EASO's auspices, and to advance progress on the challenge of integration. While the need for enhanced solidarity within the EU is evident and widely acknowledged, the economic climate, change in North Africa and other regions, and the sense of uncertain times bring out the need for real solidarity with countries outside the EU as well.
Resettlement programme at the EU level	The Joint EU Resettlement Programme ² will help shape a European vision for resettlement and deliver valuable support to countries establishing resettlement programmes. Adoption of the programme in the first half of the Danish Presidency is crucial for the EU Member States to benefit from the additional funds available under the amended European Refugee Fund (ERF) in 2013. Denmark, as a long-standing and major contributor to global resettlement for many years, is encouraged to press for progress towards agreement on the proposal in Council and Parliament.
Successful integration prevents social tension	Integration of those who are granted international protection is the foundation for durable solutions for individuals, and for strong social cohesion in their host communities. Ensuring an environment conducive for integration requires proactive leadership and a strong stance against racism and prejudice in all its forms. Where cultures and traditions meet, tolerance and open minds are needed on all sides, to avoid social tension. Therefore, successful integration measures aim at empowering individuals to cope with new situations and empower society to welcome and include newcomers. Denmark has implemented successful projects and programmes for improving integration for many years, and this experience and expertise positions it well to advance this debate in Europe.

A Common European Asylum System by 2012 – A strengthened legal framework

With the adoption of the recast Qualification Directive, the EU has come one step closer to creating a Common European Asylum System (CEAS). The next few months will be crucial for reaching agreement on the remaining legislative proposals for adoption before the end of 2012, the date set by the EU for the completion of the CEAS. UNHCR welcomes Denmark's commitment to advance this process during their Presidency.

Harmonized approach for trust and solidarity

Solidarity and trust will be at the centre of the discussion on the outstanding legal instruments. National asylum systems are intricately linked, not least through the operation of the Dublin II Regulation. Therefore a truly harmonized approach is called for to ensure consistent and high level of protection throughout the Union.

UNHCR still sees important areas where such harmonization is lacking, with uneven protection regimes and protection gaps as a result. A study published by UNHCR in July 2011 on the application of Art 15 c of the Qualification Directive in selected Member States – providing for protection for people fleeing indiscriminate violence in situations of armed conflict - highlighted this issue.³

The issue of harmonized approaches also arises when considering Member States' ability to effectively implement the asylum *acquis* when faced with different pressures. Sudden increases in asylum applications from particular countries or regions can lead to such pressures. Responses, including application of concepts of "safe country of origin" and "safe country of asylum", applied in individual Member States may lead to un-harmonised practice within the EU.

UNHCR supports the use of decisive measures to deal with significant increases in claims, as well as applications which may be manifestly unfounded. The *acquis* contains procedural arrangements that can be and are used to deal expeditiously but fairly with such cases. However, it is important to ensure that the correct criteria and essential safeguards are applied in such procedures.

Evaluation mechanism as a tool for better cooperation

The Commission, in its Communication on enhanced intra-EU solidarity in the field of asylum,⁴ refers to recent discussions among the Union's institutions on how to ensure the proper functioning of the asylum systems of all Member States, and how to detect and address emerging problems before they lead to crises and infringement proceedings. A form of 'evaluation and early warning' mechanism has been presented as a possible way forward.

UNHCR agrees with States and EU bodies that strengthened cooperation on asylum in the Union is necessary to build the trust required to operate a truly common asylum system, where Member States, individually and together, fulfil the protection promise set out in the 1951 Convention and ensure the right to asylum which is guaranteed in the Charter of Fundamental Rights.⁵ The 2011 *M.S.S. vs. Belgium and Greece* ruling of the European Court of Human Rights highlights the need, not only to reinforce the asylum systems in certain States, but also to review how the Dublin system can and should be adjusted to ensure it operates in full compliance with fundamental rights. An evaluation mechanism may provide a way

to detect emerging or current gaps in national systems which limit or preclude access to a fair and efficient asylum procedure and protection for those in need. Such gaps must be addressed in a timely and effective manner.

UNHCR would welcome further efforts and dialogue on ways to identify and respond to such challenges. UNHCR encourages the Danish Presidency to broaden the discussion on evaluation and solidarity measures, which may yield progress not only in present negotiations on the recast proposals, but also as tools to complement and support the effective running of the CEAS in the future.

**Dublin II
Regulation
important
amendments**

Concerning other aspects of the Dublin II Regulation, UNHCR considers that certain amendments are required to ensure correct application of the Regulation.⁶ Among them are the proposal for a personal interview for all applicants subject to Dublin; and for information to be provided to an applicant about the purpose, consequences, operation and deadlines of the Regulation. The proposed recast also includes a broader definition of family members. Such changes, in UNHCR's view, could significantly reduce the secondary movements of asylum-seekers within Europe that the Regulation seeks to address. By removing some of the incentives to move, including misunderstandings about the consequences of the Regulation or the desire to reunite with family members in Europe, these changes could bring down both the human and financial costs of the Dublin system. A more inclusive application to the Dublin II Regulation would mean that asylum-seekers are not just transferred to the country they first entered.

Access to an effective remedy and sufficient time to lodge an appeal, as is required in the recast proposal, also help to ensure the correct application of the Regulation. Detention for persons subject to Dublin is also an important area requiring more limitations and clarity.

**Asylum
Procedures
Directive with
sufficient
safeguards**

On the Asylum Procedures Directive (APD), UNHCR appreciates Member States' concerns to avoid any changes that could result in increased costs or scope for misuse of asylum systems. Several important proposals in the revised recast⁷ could, however, fill important gaps and provide much-needed safeguards in the present Directive without these risks.

UNHCR welcomes the safeguards proposed related to accelerated procedures. In this framework, UNHCR insists particularly that accelerated procedures should entail *'reasonable time limits for the adoption of a decision in the procedure at first instance... which ensure an adequate and complete examination'*. This wording, proposed in Article 31(7) of the Recast of 1 June 2011, must be retained, in UNHCR's view, to ensure that accelerated procedures meet the minimum standards required for an accurate and fair decision. This remains one of UNHCR's key concerns with respect to the Asylum Procedures Directive.

Of particular concern is the proposed Article 31 (3) whereby a Member State can decide to postpone a decision, without time limits, if the situation in country of origin is uncertain and expected to be temporary. UNHCR considers that this has the potential to deny protection, for considerable periods of time, to those who flee situations of instability giving rise to protection needs. Consequently, UNHCR recommends deleting the last indent of Article 31 (3).

**Reception
Conditions
Directive to
limit detention
of asylum-
seekers**

In the Reception Conditions Directive, UNHCR considers that regulation of detention for asylum-seekers is essential. It is highly anomalous that in the EU today, people whose right to asylum is guaranteed by the Charter of Fundamental Rights have drastically fewer rights in detention than people with no lawful right to remain in the Union,⁸ as well as suspected and convicted criminals. UNHCR supports the proposal (Article 8) to require an assessment to prove the necessity of detention as well as to exhaustively define the grounds for detention of asylum-seekers, noting that asylum-seekers cannot be detained simply for the reason that they have requested international protection.⁹ Clarified and limited grounds would help courts ensure that detention is lawful, pursuant to important provisions that would require judicial authorisation or approval of a detention order, and continuing judicial oversight at regular intervals (Article 9). Further, specific provisions regulating the minimum conditions for detention (Article 10) would help Member States ensure that their international obligations are met, and that detention does not serve to inhibit asylum-seekers' ability to present their protection claims effectively. UNHCR welcomes in this regard proposals to place further limits on detention for vulnerable persons and those with 'special reception needs', as well as unaccompanied minors (Art 11).¹⁰

**Protecting un-
accompanied
and separated
children**

Unaccompanied and separated children arriving in Europe have particular needs, arising not least from the hazards of their journeys. They may also be at particular risk in their country of origin or asylum, including in some cases from their own families and communities. This can pose complex challenges for protection and finding solutions. The Commission's Action Plan on Unaccompanied Minors (2010 – 2014)¹¹ acknowledges the need for a common EU approach to these issues and for higher standards of protection for this group. This requires adoption of some of the safeguards mentioned above in the Recasts of the asylum instruments. Furthermore, more comprehensive legislation, as well as effective implementation, is needed on trafficking in human beings and sexual exploitation of children. Review mechanisms to monitor the quality of guardianship for unaccompanied asylum-seeking and migrant children are urgently needed in order to ensure that the best interests of the child are respected throughout the decision-making process.

UNHCR has worked with partner organizations to identify best practices in guardianship. Work is also underway on a UNHCR project to develop quality guidelines on the 'Best Interest' Determination' (BID) for unaccompanied children for countries, including those in Europe, with established child protection systems. Correct assessment of 'best interests' is particularly important in seeking solutions for separated children, not least if such solutions might include return to a country where they do not have family support.

Recommendation for the CEAS - legislative agenda

UNHCR encourages the Danish Presidency to move the legislative agenda further towards agreement, in keeping with the timeframe of the Stockholm programme. In this regard to:

- ✓ Seek compromises which include safeguards bringing the texts into line with European and International obligations and best practice;
- ✓ Take forward the discussion on an evaluation mechanism - also beyond the Dublin II Regulation;
- ✓ Support an explicit requirement in the Asylum Procedures Directive for accelerated procedures to ensure 'an adequate and complete examination' in every case;
- ✓ Advocate for greater regulation of detention of asylum-seekers, with respect to the grounds, judicial oversight and conditions for detention;
- ✓ Raise the issue of unaccompanied and separated children, as relevant, to ensure full compliance with the Convention on the Rights of the Child.

Practical cooperation in a Common European Asylum System

Practical cooperation among all stakeholders

While strengthened legislative provisions are essential for the CEAS, the goal of more harmonized practices and outcomes cannot be achieved without increased practical cooperation. Where good practices and expertise exist, these should be shared among states working together to solve problems, develop common tools and improve coordination and information exchange. Non-state bodies, including civil society, and academia, as well as different parts of the state (local government, guardians, ombudsmen institutions, social and child/family support organisations) can contribute greatly to improving practice. UNHCR, with its supervisory role in relation to the 1951 Convention and broad expertise on asylum issues in Europe, is also ready to continue supporting the practical cooperation agenda in the numerous areas where it is involved, and to collaborate with the European Asylum Support Office (EASO) to this end.

Denmark has a long tradition of working closely with non-government and other social institutions. This expertise can also be employed in promoting practical cooperation within the EU.

Dealing with particular pressure on

It is now widely recognised that individual Member States may face pressures on their asylum systems at different times. Changing arrival and asylum claim levels may require strategic and carefully-planned responses which may not always be

**individual
Member States**

possible in a timely manner, or which may exceed the resources immediately available. Geographic location plays a role, as countries at the Union's external borders may be closer to areas of conflict, and more exposed to fluctuating migration and asylum flows.

The experience of mixed movements from North Africa following significant events there during 2011 highlighted the susceptibility of Member States to challenges from shifting arrival patterns. While overall a limited number of persons arrived in Europe from the conflict in Libya,¹² the numbers arriving in Italy and Malta nevertheless created significant initial demand on reception facilities. Malta called for, and received, pledges of relocation places for some of those arriving who were found to be in need of international protection. Reduced arrivals over subsequent months meant that other tools – including emergency funding measures and the Temporary Protection Directive – were not used. It could be said that the crisis on this occasion did not test the EU's internal solidarity arrangements to their maximum extent. However, it did call for solidarity with Tunisia and Egypt, as the main host countries for displaced people. UNHCR's invitation to EU Member States to resettle refugees out of North Africa during and after the crisis has so far been met with a modest response.

**Greek asylum
reform
process
underway**

The EASO has been tasked with supporting Member States subject to particular pressure. The Greek asylum reform process, launched in 2011 under the national Action Plan on Migration Management, is the first major challenge for the EASO in this area. The Greek authorities have intensified their cooperation and coordination with UNHCR, EASO and other relevant partners to ensure complementarity and mutually reinforcing activities. However, it is apparent that the needs are vast, and that a significant further investment of time, expertise and increased and flexible resources is required.

**Quality – the
guiding
principle for
the CEAS**

The EASO Regulation, defining the practical cooperation agenda, refers to the importance of increasing convergence and ensuring 'ongoing quality' in Member States' decision-making procedures.¹³ UNHCR has worked intensively with EU Member States over recent years, including in several ERF-funded projects, to establish dedicated mechanisms for quality assurance in asylum decision-making. The lessons learned and tools developed from these projects are at work in many Member States today. UNHCR welcomes the inclusion in EASO's work plan for 2012 of quality initiatives as a priority, and is ready to lend its support and expertise to the task.

**Training staff
dealing with
asylum**

Quality in asylum systems also requires knowledge – and in this respect, training remains a key area where EU collaboration is vital. The European Asylum Curriculum, newly under the EASO's leadership, represents a resource of enormous potential to build expertise and common approaches. The EAC modules must be expanded and revised to ensure they are constantly up-to-date and contain the clearest and most accurate learning material. UNHCR welcomes the opportunity to continue taking part in the Reference Group and encourages the inclusion of other expert bodies in its work.

Integration – a durable solution

Monitoring results – looking beyond the figures

In July 2011, the European Commission's Communication on the European Agenda for the Integration of Third-Country Nationals was launched.¹⁴ Within the existing EU framework on integration the Commission sets out the way forward, highlighting three focus areas: enhanced cooperation; developing a flexible European toolbox and monitoring of results. In line with the EU's view on this matter, UNHCR emphasises that integration is a two-way process. Therefore, Member States should make efforts to ensure an environment which is conducive for integration. For beneficiaries of international protection, this also means efforts to ensure that the circumstances leading to forced displacement and flight are well understood in host communities and there is a positive attitude towards the protection of refugees. With regards to monitoring of results, UNHCR supports the development of integration indicators and analyses which consider the specific situation of refugees, going beyond quantitative data, to include participatory assessments which will help the analysis and identification of good practice.

Understanding protection beneficiaries - key to integration

People seeking protection represent only a small part of overall movements to Europe. However, they constitute a group whose circumstances may require particular attention in the design of integration programmes. This may require, for instance, specific measures to ensure timely family reunification; build trust in authorities and in good governance; make exceptions to requirements for personal documentation; and establish tailored mechanisms for skills assessment. Additionally, psycho-social support for refugees who have experienced trauma may be required. The particular situation and needs of protection beneficiaries were acknowledged in the European Agenda for Integration, suggesting that policies should, for instance, be designed to minimize isolation of beneficiaries of international protection and restrictions on their rights.

Family reunification is important

UNHCR sees family reunification as particularly important for refugee integration. Separation of family members during forced displacement and flight can have devastating consequences on peoples' well-being and ability to rebuild their lives. UNHCR welcomes the discussion launched in the Commission's Green Paper on Family Reunification and hopes for a better understanding of the negative impact of family separation on refugee integration. UNHCR considers that there is a need for a stronger framework for ensuring that families are brought together in safety.

UNHCR has noted an increased use of detention in some Member States at different stages of the asylum procedure. UNHCR advocates that detention be used as a measure of last resort. A better understanding is needed of the affects of detention on individuals and families, including on their ability to integrate after receiving protected status.

Refugees and others benefiting from international protection have lost the protection of their country of origin; for many, return is not an option and integration in a Member State is the only possible solution. UNHCR observes that many Member States do not have policies and practices in place which sufficiently facilitate this process.

Leadership for social cohesion

In an increasingly difficult economic environment in many European countries, innovation and leadership are required to ensure social cohesion and a more positive attitude towards diversity. This should be based on reinforced commitment to fundamental rights and equal treatment, building on the mutual respect of different cultures and traditions. UNHCR works with partners in many countries to counter racism, monitor hate crime and empower communities to live together without fear or conflict. More work is needed in this crucial area, including better enforcement of existing anti-discrimination legislation; development and implementation of anti-racism strategies; and the promotion of intercultural-dialogue based on respect and tolerance. Empowerment of communities requires empowerment of men, women, and youth. In 2011, UNHCR engaged in dialogues with refugee women in seven countries, including Finland. The outcome gives a clear indication of the particular challenges women face as refugees, protectors and survivors.¹⁵

Recommendation regarding integration

To create an environment conducive to integration for beneficiaries of protection, among other measures, UNHCR urges the Presidency to:

- ✓ Display leadership in combating racism and promoting respectful intercultural-dialogue; take a strong stance against hate crime; and support projects aimed at bringing different communities closer together;
- ✓ Champion the promotion of empowerment of refugee women through outreach, participation, dialogue and action aimed at addressing their particular needs;
- ✓ Take an active role in ensuring that the specific situation of refugees is understood and included in integration monitoring and evaluations, going beyond quantitative assessments of socio-economic success;
- ✓ Use the momentum created by the Green Paper consultation on family reunification to focus on the impact prolonged family separation has on integration;
- ✓ Foster strong partnerships between government, local authorities, civil society, refugee or migrant groups and other society leaders as a platform for creative and innovative approaches to integration.

Solidarity with states outside the EU

International cooperation vital to ensure protection

One of today's major challenges in ensuring protection for those uprooted by conflict is the disproportionate burden on developing countries hosting large numbers of refugees. UNHCR believes the solution must be more international solidarity. With the vast majority of refugees sheltered by countries neighbouring their own, and some 80% in developing countries, international cooperation is vital to ensure they can effectively be protected. Such cooperation can include using development cooperation to target returnee and refugee-hosting areas, with the aim of enhancing the capacity of developing countries to offer asylum and protection to refugees. Making more resettlement places available is another vital form of solidarity and responsibility-sharing.

The Stockholm Programme acknowledges the need to show solidarity with third countries outside the EU¹⁶ and proposes the further development of instruments and measures, in close cooperation with UNHCR, for this purpose. It points concretely to the further development of Regional Protection Programmes (RPPs) and the establishment of a joint EU resettlement Programme.

Towards a joint EU Resettlement Programme

The Commission's 2009 proposal for a Joint EU Resettlement Programme entails a voluntary framework of national resettlement programmes, to be supported by EU funding. UNHCR sees this as an important political step to increase the role and visibility of European Member States in resettlement. Over the past years, the contribution of EU Member States has been around 5,000 places per year, which constituted around 6.5 % of all resettlement places globally. The joint Programme offers tools to support Member States in resettlement, with the EASO playing a potentially important role as a facilitator of information-sharing and practical cooperation.

With the current financial framework coming to an end in 2013, pledges for resettlement benefiting from funding under the last cycle of the European Refugee Fund (ERF) will be required before June 2012. The proposed Joint EU Resettlement Programme includes additional ERF funding for new resettlement countries. For EU Member States to benefit from this funding, the Programme needs to be adopted in early 2012. UNHCR therefore encourages the Danish Presidency to take an active role in negotiating a compromise on this important text. UNHCR further urges all Member States and European institutions to continue to support these efforts.

Regional Protection Programmes promoting comprehensive solutions

In the November 2011 Commission Communication on the Global Approach to Migration and Mobility,¹⁷ a commitment to strengthen the asylum policy frameworks and protection capacity in non-EU countries is set out. The Commission points to more extensive cooperation with non-EU countries, *inter alia* as part of RPPs. UNHCR has implemented a number of the EU-funded RPPs since the concept was developed, including in Tanzania in the Great Lakes region; Belarus, Moldova and Ukraine; the Horn of Africa and Yemen; and most recently North Africa. UNHCR welcomes the recognition of Afghanistan and Pakistan as an important potential future area of focus.

While the funds provided for capacity-building and resettlement referral by UNHCR under these programmes are welcome, expectations must be realistic. Ownership and participation by the beneficiary states is critical to ensure the projects' success. Furthermore and perhaps most importantly, EU Member States must match funds and resettlement places with the needs in the RPP target regions. Greater numbers of resettlement places would make durable solutions a reality for refugees identified by UNHCR in these countries, who include some of the most vulnerable refugee populations worldwide.

**North Africa –
more to be
done**

Since early 2011, more than three quarters of a million people became refugees, following upheaval and conflict in Africa and the Middle East. Over one million people fled Libya alone. UNHCR in cooperation with IOM has assisted close to 160,000 third country nationals to return to their country of origin from Libya. In Europe, Italy received around 28,000 arrivals from Libya and Malta received just over 1,500. While the conflict officially has ended, there is still more to be done. UNHCR has called for States to help find comprehensive solutions to the displacement situation in the region. The newly established RPP for North Africa, encompassing Egypt, Tunisia and Libya, can go some way to assist the countries cope with the asylum and migration challenge. However, solidarity in the form of specific resettlement offers for refugees out of Tunisia and Egypt is also urgently needed. Some 5,000 people, many of whom were refugees in Libya before the conflict broke out, are now in border camps in Tunisia and Egypt. UNHCR advocates for Member States to accept 2,000 persons as part of the overall protection efforts in the region.

Recommendations regarding solidarity with non-EU countries

Denmark is encouraged to lead the EU in discussions on solidarity with countries outside the EU in the asylum and protection field, including on:

- ✓ More concrete and comprehensive solidarity measures with countries and regions hosting the vast majority of displaced people, including through linking development assistance with refugee needs;
- ✓ The need for urgent agreement on the Joint EU Resettlement Programme, to utilise available funds under the ERF for much-needed resettlement places;
- ✓ Increasing the impact of RPPs, through ensuring resettlement places are offered, to match the referrals that UNHCR is funded to make from the RPP target countries with large and vulnerable refugee populations;
- ✓ Continued support to North African countries seeking stability and economic progress, including through demonstrating responsibility-sharing via resettlement.

Conclusion – time to consolidate progress and move forward

Denmark faces a great challenge – as well as an outstanding opportunity – to consolidate progress made thus far on the development of the CEAS. The coming months will be crucial in determining if the 2012 deadline for completing the common system can be met. The Presidency is urged to maintain and build on the momentum achieved thus far on the recast process for the asylum Instruments, while supporting further progress on practical cooperation.

Integration may seem like a more challenging undertaking when economic times are difficult. However, it could be argued that at such times, it is all the more important. Refugees and other protection beneficiaries must be empowered to find ways to contribute to their host societies in ways that use their potential, for the benefit of all concerned.

Solidarity – both within the European Union and beyond – will remain a major theme in all discussions concerning asylum over the coming months. The EU is bound by legal obligations under the Treaty on the Functioning of the EU, and must consider this as well as the practical challenges it faces within its borders when developing commitments to solidarity within the European Union. In the EU's dealings with countries outside its borders, notably those hosting the majority of the world's refugees without adequate resources to do so, responsibility-sharing becomes an even more pressing challenge. The EU under Denmark's leadership is strongly encouraged to maintain this global view.

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- ¹ European Union Declaration on the 60th Anniversary of the 1951 Convention Relating to the Status of Refugees (27 Oct. 2011) available at: http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/jha/125703.pdf
- ² Communication from the Commission to the European Parliament and the Council on the Establishment of a Joint EU Resettlement Programme (COM(2009) 447 final), available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2009:0447:FIN:EN:PDF>.
- ³ UN High Commissioner for Refugees, *Safe at Last? Law and Practice in Selected EU Member States with Respect to Asylum-Seekers Fleeing Indiscriminate Violence*, 27 July 2011, available at: <http://www.unhcr.org/refworld/docid/4e2ee0022.html>.
- ⁴ European Commission: Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on enhanced intra-EU solidarity in the field of asylum, 2 December 2011, COM(2011) 835, available at: http://ec.europa.eu/home-affairs/news/intro/docs/201112/1_EN_ACT_part1_v6.pdf.
- ⁵ Charter of Fundamental Rights of the European Union, 7 December 2000, 2000/C 364/01, available at: http://www.europarl.europa.eu/charter/pdf/text_en.pdf
- ⁶ UNHCR comments on the European Commission's Proposal for a recast of the Regulation of the European Parliament and of the Council establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third country national or a stateless person ("Dublin II") (COM(2008) 820, 3 December 2008) and the European Commission's Proposal for a recast of the Regulation of the European Parliament and of the Council concerning the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of [the Dublin II Regulation] (COM(2008) 825, 3 December 2008), 18 March 2009, available at: <http://www.unhcr.org/refworld/docid/49c0ca922.html>; European Commission: Proposal for a Regulation of the European Parliament and of the Council establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person, 3 December 2008, COM(2008) 820 final, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2008:0820:FIN:EN:PDF>
- ⁷ Detailed Explanation of the Amended Proposal Accompanying the document Amended proposal for a Directive of the European Parliament and of the Council on common procedures for granting and withdrawing international protection status (Recast), 1 June 2011, COM(2011) 319 final ANNEX, available at: [http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=SPLIT_COM:2011:0319\(01\):FIN:EN:PDF](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=SPLIT_COM:2011:0319(01):FIN:EN:PDF).
- ⁸ Note: rejected asylum seekers and others with no right to remain in a Member States are subject to the Returns Directive (Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals), which closely regulates the use of pre-removal detention in Arts 15-8.
- ⁹ Article 8, Amended proposal for a Directive of the European Parliament and of the Council laying down standards for the reception of asylum seekers (Recast), 1 June 2011, COM(2011) 320 final; see also Art 18, APD; and Art 31, 1951 Convention on the Status of Refugees.
- ¹⁰ Alice J. Edwards, "Back to Basics: The Right to Liberty and Security of Person and 'Alternatives to Detention' of Refugees, Asylum-Seekers, Stateless Persons and Other Migrants" April 2011, PPLA/2011/01.Rev.1, available at: <http://www.unhcr.org/refworld/docid/4dc935fd2.html>.
- ¹¹ European Commission: Action Plan on Unaccompanied Minors (2010-2014), 6 May 2010, COM (2010)213 final, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0213:FIN:EN:PDF>.
- ¹² Approximately 30,000 people arrived from Libya in Italy and Malta during the conflict in the first part of 2011, compared to over 1 million people who left Libya overall and fled principally to neighbouring countries.
- ¹³ Recital 5, Regulation (EU) No 439/2010 of the European Parliament and of the Council of 19 May 2010 establishing a European Asylum Support Office, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:132:0011:0028:EN:PDF>.
- ¹⁴ European Commission: European Agenda for the Integration of Third-Country Nationals, 20 July 2011, COM(2011) 455 final, available at: http://ec.europa.eu/home-affairs/news/intro/docs/110720/1_EN_ACT_part1_v10.pdf.
- ¹⁵ UN High Commissioner for Refugees, *Protectors, Providers, Survivors: A Dialogue with Refugee Women In Finland*, October 2011, available at: <http://www.unhcr.org/4ec3d7606.pdf>.
- ¹⁶ The Stockholm Programme – an open and secure Europe serving and protection citizens (2010/C 115/01) at p. 33-34, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:115:0001:0038:en:PDF>.
- ¹⁷ European Union: European Commission, *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: The Global Approach to Migration and Mobility*, 18 November 2011, COM (2011) 743 final, available at: http://ec.europa.eu/home-affairs/news/intro/docs/1_EN_ACT_part1_v9.pdf.