

# EUROPEAN PARLIAMENT

1999



2004

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*Session document*

FINAL  
**A5-0304/2001**

14 September 2001

## REPORT

on the Commission communication entitled "Towards a common asylum procedure and a uniform status, valid throughout the Union, for persons granted asylum"

(COM(2000) 755 – C5-0101/2001 – 2001/2048(COS))

Committee on Citizens' Freedoms and Rights, Justice and Home Affairs

Rapporteur: Robert J.E. Evans



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## PROCEDURAL PAGE

By letter of 23 November 2000, the Commission forwarded to Parliament a communication entitled "Towards a common asylum procedure and a uniform status, valid throughout the Union, for persons granted asylum" (COM(2000) 755 – 2001/2048(COS)).

At the sitting of 15 March 2001 the President of Parliament announced that she had referred the communication to the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs as the committee responsible and the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy, the Committee on Legal Affairs and the Internal Market, the Committee on Industry, External Trade, Research and Energy, the Committee on Employment and Social Affairs and the Committee on Petitions for their opinions (C5-0101/2001).

The Committee on Citizens' Freedoms and Rights, Justice and Home Affairs had appointed Robert J.E. Evans rapporteur at its meeting of 16 January 2001.

The committee considered the Commission communication and the draft report at its meetings of 11 June, 19 June, 28 August and 13 September 2001.

At the last meeting it adopted the motion for a resolution by 21 votes to 13, with 1 abstention.

The following were present for the vote: Robert J.E. Evans acting chairman and rapporteur; Enrico Ferri, vice-chairman; Niall Andrews, Maria Berger (for Ozan Ceyhan), Alima Boumediene-Thiery, Charlotte Cederschiöld, Carmen Cerdeira Morterero (for Adeline Hazan), Carlos Coelho, Giovanni Claudio Fava (for Michael Cashman pursuant to Rule 153(2)), Francesco Fiori (for Mary Elizabeth Banotti pursuant to Rule 153(2)), Niels Busk (for Baroness Sarah Ludford pursuant to Rule 153(2)), Glyn Ford (for Martin Schulz), Pernille Frahm, Evelyne Gebhardt (for Sérgio Sousa Pinto), Daniel J. Hannan, Roger Helmer (for Timothy Kirkhope pursuant to Rule 153(2)), Renzo Imbeni (for Gianni Vattimo), The Lord Inglewood (for Thierry Cornillet pursuant to Rule 153(2)), Anna Karamanou, Margot Keßler, Eva Klant, Alain Krivine (for Giuseppe Di Lello Finuoli), Hanja Maij-Weggen (for Gérard M.J. Deprez pursuant to Rule 153(2)), Lucio Manisco (for Fodé Sylla), Manuel Medina Ortega (for Elena Ornella Paciotti pursuant to Rule 153(2)), Baroness Nicholson of Winterbourne (for Graham R. Watson pursuant to Rule 153(2)), Arie M. Oostlander (for Hartmut Nassauer), Neil Parish (for Hubert Pirker pursuant to Rule 153(2)), Paolo Pastorelli, Amalia Sartori (for Bernd Posselt pursuant to Rule 153(2)), Gerhard Schmid, Patsy Sørensen, Joke Swiebel, Anna Terrón i Cusí and Christian Ulrik von Boetticher.

The opinions of the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy and the Committee on Petitions are attached; the Committee on Legal Affairs and the Internal Market, the Committee on Industry, External Trade, Research and Energy and the Committee on Employment and Social Affairs decided on 11 April 2001, 27 February 2001 and 18 January 2001 respectively not to deliver an opinion.

The report was tabled on 14 September 2001.

The deadline for tabling amendments will be indicated in the draft agenda for the relevant part-session.

## MOTION FOR A RESOLUTION

**European Parliament resolution on the Commission communication entitled "Towards a common asylum procedure and a uniform status, valid throughout the Union, for persons granted asylum" (COM(2000) 755 – C5-0101/2001 – 2001/2048(COS))**

*The European Parliament,*

- having regard to the Commission communication (COM(2000) 755 – C5-0101/2001<sup>1</sup>);
- having regard to Title IV of the Treaty establishing the European Community on visas, asylum, immigration and other policies related to the free movement of persons;
- having regard to the Treaty on European Union, in particular Articles 2 and 6 thereof;
- having regard to Article 18 and Article 19(2) of the European Charter of Fundamental Rights;
- having regard to the European Convention for the Protection of Human Rights and Fundamental Freedoms, adopted on 4 November 1950;
- having regard to the Geneva Convention of 28 July 1951 relating to the Status of Refugees, as amended by the New York Protocol of 31 January 1967;
- having regard to the Universal Declaration of Human Rights of 10 December 1948;
- having regard to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted on 10 December 1984;
- having regard to the UN Convention on the Rights of the Child adopted on 20 November 1989;
- having regard to the Council resolution of 20 June 1995 on minimum guarantees for asylum procedures<sup>2</sup>;
- having regard to the Dublin Convention of 15 June 1990 determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities;
- having regard to the action plan on how best to implement the provisions of the Treaty of Amsterdam on an area of freedom, security and justice <sup>3</sup>, adopted by the Vienna European Council of 11 and 12 December 1998;
- having regard to the conclusions of the Tampere European Council of 15 and 16 October

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<sup>1</sup> Not yet published in OJ

<sup>2</sup> OJ C 274, 19.9.1996, p. 13.

<sup>3</sup> OJ C 19, 23.1.1999, p. 1.

1999, in particular points 2, 3, 4, 8, and 11 to 27 thereof;

- having regard to its earlier resolutions on immigration and asylum;
  - having regard to Regulation 2725/2000 of 11 December 2000 concerning the establishment for the comparison of fingerprints for the effective application of the Dublin Convention <sup>1</sup>;
  - having regard to the Commission proposal for a Council directive on minimum standards on procedures in Member States for granting and withdrawing refugee status (COM(2000) 578 ) and the Commission proposal for a Council directive laying down minimum standards on the reception of applicants for asylum in Member States (COM(2001) 181 );
  - having regard to its position of 13 March 2001 <sup>2</sup> on the Commission proposal for a Council directive on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof (COM(2000) 303);
  - having regard to the Council Decision of 28 September 2000 establishing a European Refugee Fund <sup>3</sup> and the Commission Decision of 20 March 2001 laying down detailed rules for the implementation of Council Decision 2000/596/EC as regards the eligibility of expenditure and reports on implementation in the context of actions co-financed by the European Refugee Fund (notified under document number (C (2001) 736) <sup>4</sup>;
  - having regard to Rule 47(1) of its Rules of Procedure;
  - having regard to the report of the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs and the opinions of the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy and the Committee on Petitions (A5-0304/2001);
- A. whereas a common asylum policy is a key component of an EU area of freedom, security and justice, which must be based on the respect for fundamental rights of individuals as expressed in the European Charter of Fundamental Rights; and although this policy is being developed in tandem with the common immigration policy, the specific nature of humanitarian protection, be it through recognition of refugee status in accordance with the Geneva Convention or through complimentary forms of protection, should not be undermined by a wider immigration route to entry;
- B. whereas, mindful of the need to eliminate the organised networks and 'traffickers' that exploit shamefully the misery of asylum seekers and often lead them to their deaths; expresses its concern at the restrictive application of rules on political refugees, which causes a corresponding rise in illegal immigrants, and also its concern that asylum seekers' hopes of being permitted to remain in the Member States are shamefully exploited by clandestine immigration networks;
- C. whereas the system of providing protection for refugees and asylum-seekers, in line with

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<sup>1</sup> OJ L 316, 15.12.2000, p. 1.

<sup>2</sup> A5-0077/2001.

<sup>3</sup> OJ L 252, 6.10.2000, p. 12.

<sup>4</sup> OJ L 95, 5.4.2001, p. 27.

the provisions of international law, must not be compromised by measures to combat organised crime and in particular trafficking in human beings;

- D. whereas the European Council meeting in Tampere established a two stage approach with the final objective of a common asylum procedure and uniform status for the European Union and expressed the European Union's full commitment to the Geneva Convention and other human rights instruments; this commitment was more recently confirmed in Articles 18 and 19 of the European Charter of Fundamental Rights;
- E. whereas national legal provisions in this area vary from State to State; however, it is necessary, in establishing a common European legal area, to create common legal standards for asylum as in other areas of law;
- F. whereas it expresses its concern at the influx of asylum seekers from geographical zones where they are persecuted collectively because of their membership of a particular ethnic, cultural or religious group;
- G. whereas, in view of the Community principle of incorporating the gender dimension into all policies (mainstreaming), a common asylum policy must recognise and protect the legal position of women who seek asylum or any other form of protection from the Member States, with special regard to the particularly difficult situation of women who come from States with regimes that do not respect the principle of gender equality;
- H. whereas the adoption of minimum standards should not be based on a lowest common denominator, nor affect the aim in the second stage of achieving high standards for the protection of refugees, which respect the internationally agreed regime for the protection of refugees, including the principles of non-discrimination, no geographic limitation and *non-refoulement*;
- I. whereas a common asylum policy should ensure a full and inclusive common interpretation of the Geneva Convention which includes persecution of the individual by both state and non-state agents as grounds for the granting of asylum, and should also include a harmonised appeals procedures before a system of mutual recognition of asylum decisions could be implemented;
- J. whereas the right to asylum requires that the circumstances of the individual are fully taken into account; for example, through information explaining the asylum procedure and the protection that it affords;
- K. whereas it considers that asylum seekers and family members accompanying them must be provided with decent accommodation, food, clothing and daily benefits providing a minimum level of resources for the length of the asylum procedure, the duration of which must be reduced significantly through the use of efficient, just and effective procedures; and asks that asylum seekers be granted a limited right of movement within the host State and the right, subject to certain conditions, to seek employment;

### **Safe country concept**

- L. whereas in order to speed up the procedures for dealing with asylum applications use is made by the Member States of the concept of "safe countries of origin" and "safe third countries";
- M. whereas any use of the safe country concepts in a common policy should be based on human rights considerations and not related to diplomatic and trading links and should not substantially reduce the rights of an individual;
- N. whereas, EU Member States and the European Union should speak with one voice as regards their position on human rights and democracy vis-à-vis third countries; differing opinions, translated into differences in policy, weaken the Union's external policy and strengthen governments which do not observe principles of democracy and human rights;
- O. whereas it is imperative that EU Member States take a common approach with regard to the admission of refugees; the current situation in which refugees from particular countries are admitted by some EU Member States and not by others must as quickly as possible become a thing of the past; the concept of 'safe countries' needs to be defined unequivocally;

### **Single procedure**

- P. whereas a single procedure for processing claims for asylum and other forms of complementary protection is to be welcomed as it could render the asylum application process fairer and more efficient, it must be guaranteed that an individual's application is first examined as an application for asylum then considered as a claim for complementary protection; such a single procedure should not downgrade the integrity of the asylum application system, by regarding refugee status, as recognised under the Geneva Convention, and complementary forms of protection as interchangeable;
- Q. whereas applicants for refugee status should be able to make applications for asylum outside the Union and outside their country of origin; it is imperative that such a system is seen as additional and complementary to an assessment of claims on the territory of EU Member States and should not permit the Member States to escape their international obligations under the Geneva Convention nor other humanitarian commitments, furthermore such a procedure should not be introduced or applied where it could increase the chance of persecution of the individual;
- R. whereas obstacles to the removal from the territory may prevent deportation for persons who do not have protection needs covered by the Geneva Convention or other humanitarian protection and should therefore not be included in a single procedure;
- S. whereas it considers that, in the context of this policy, the EU Member States will be called upon to encourage and organise voluntary return to the country of origin for asylum seekers whose applications have been rejected, and to offer them material aid as well as other forms of support;



## **Uniform status**

- T. whereas once an individual meets the conditions in the Geneva Convention, he or she is a refugee even before entering EU territory and being officially 'recognised' as such, and in light of the forthcoming Commission proposal for a Directive on the Approximation of rules on the recognition and content of refugee status and the proposal on Subsidiary forms of protection, the treatment accorded to those seeking recognition as refugees should be of an equivalent standard as given to refugees after recognition of their status;
- U. whereas the recognition of refugee status under the Geneva Convention entitles refugees to rights under the Convention, these rights should be harmonised at a high level in a common policy and should reflect the rights in the EU Charter of Fundamental Rights; in particular, Articles 7, 14 and 15;
- V. whereas the rights granted to persons enjoying subsidiary protection should be consistent with the rights granted to refugees; as regards the right to family reunification, Member States may maintain or introduce more favourable arrangements than those established by EC law which may in no circumstances be used to justify lowering the level of protection already guaranteed by a Member State;

## **Responsibility sharing**

- W. whereas Member States have a duty to share responsibility in meeting their international obligations; such sharing of responsibility must not involve Member States setting numerical ceilings on refugee intake, since this could distort the application of the criteria for recognising refugee status;
- X. whereas the forthcoming replacement to the Dublin Convention should be a Community instrument whose legal status could overcome some of the existing legal problems in its current application;
- Y. whereas numerous petitions have been received by the Committee on Petitions, it is recalled that asylum seekers will in future be free to apply in respect of their asylum procedure to the Committee on Petitions of the European Parliament;

## **Conclusions**

- 1. Calls on the Commission and the Council to ensure that work on the minimum standards concerning asylum policy within the EU does not prejudice the final objective of a high level of common standards; and hopes that the proposal for a directive adopted by the Commission in April 2001 on minimum rules for asylum procedures will complete the legislative process quickly;
- 2. Calls on the Commission and the Council to ensure that a common European asylum policy:
  - maintains high standards for refugee protection by giving full effect to the 1951 Geneva Convention Relating to the Status of Refugees;
  - includes a common definition of refugee based on a full and inclusive definition which,

- furthermore, allows established reasons for persecution to be interpreted from the perspective of gender-related persecution, and which includes both state or non-state persecution and takes account of an applicant's fear of future persecution;
- for the use of concepts such as safe third country, safe country of origin and accelerated procedures and procedures for manifestly unfounded applications to be limited to where justified and to include legally binding guarantees as set out in point 3 below;
  - includes the harmonisation of the appeals procedures prior to any inclusion of the principle of mutual recognition of judicial decisions;
3. Calls for adequate procedural guarantees to be included to protect individual applicants including:
- on arrival in the European Union, all asylum seekers must be given information, in a language they understand, concerning their fundamental rights and those corresponding to their status, and must be able to communicate with the outside world and with legal representatives and NGOs in particular;
  - the provision of full legal assistance to each applicant, paid for by public funds;
  - full information to be obtained at an early stage in the procedure and an individual assessment of the application;
  - the possibility of a full examination if the applicant presents specific indications which might outweigh a general presumption of a safe third country or safe country of origin;
  - the processing of asylum applications by a qualified body, accompanied by a competent independent interpreter, regardless of whether the asylum application is being assessed according to a regular or accelerated procedure;
  - the manifestly unfounded or abusive character of an application should be established by the authority or the court competent to determine refugee status;
  - a suspensive appeal should be guaranteed against all unsuccessful applications;
4. Calls on the Commission and Member States to ensure that the principle of mutual recognition can be applied to both positive and negative asylum decisions;
5. Specifically in relation to the use of the safe country concepts, calls:
- for a requirement in relation to the determination of a country as 'safe ' that the country in question observes the international law standards of human rights and for the protection of refugees;
  - for a procedure for reaching agreement on a common list of safe countries of origin or safe third countries which should take account of recent developments and be based on human rights considerations; such a list should however be merely indicative and capable of being over-ridden in individual circumstances, so as not to undermine the principle of individual assessment in accordance with the provisions of the Geneva Convention;
  - for a coordinated approach to be taken to obtaining full information on the third country concerned;
  - in the drawing up of country reports by the EU and EU Member States, the views of the UNHCR, the International Red Cross and non governmental organisations working in the area of human rights should be taken into consideration;
  - for country reports to be made public, together with the conclusions on which the concept of 'safe countries' is based, in accordance with the provisions of Regulation 1049/2001 on public access to documents;
  - for a system that ensures that the individual will be admitted by the third country, and

- have appropriate access to asylum procedures;
  - on the Commission to monitor the transfer to safe countries and to provide an annual report to the European Parliament;
6. Calls for a single procedure for the recognising of refugee status and the granting of complementary forms of protection:
    - based on a procedural hierarchy which examines the possibility for recognition of refugee status according to the Geneva Convention in the first instance, followed by a consideration of any complementary forms of protection thereafter;
    - permits an appeal against the refusal to recognise refugee status;
  7. Calls for the processing of asylum decisions to be carried out within a strict timetable to be achieved through:
    - Member States providing adequate means to ensure the speedy processing of asylum applications in terms of both human and financial resources;
    - the harmonisation between Member States of the time taken to process applications;
  8. Calls on the Commission and Council to ensure consistency in terms of the rights accorded to refugees and those granted complementary form of protection;
  9. Calls for the Member States to strive for consistency in their interpretation of the Geneva Convention, and for the Commission or another body to develop mechanisms to monitor and ensure this consistency, for example by issuing non-binding opinions on Member States' interpretation of the Geneva Convention at the administrative level;
  10. Calls on the Commission to consider the following complementary measures:
    - measures to combat the root causes of migration, whereas partnerships with countries of origin, including former colonial states, should aim to create just societies that respect human rights and to foster economic improvements. This could lead to decreased migration flows to the European Union while reducing unemployment in the home countries;
    - measures to improve access to EU territory for those fleeing persecution, ensuring that any controls put in place by Member States to control immigration and entry to the territory do not in fact hinder access to asylum procedures and undermine Member States' international commitments to offer protection;
    - a complementary procedure for asylum applications made outside the EU and outside the country of origin, but one which must be additional to an assessment of claims on the territory of EU Member States and should not permit the Member States to escape their international obligations under the Geneva Convention nor other humanitarian commitments;
  11. Calls on the Commission to prepare a detailed study of the reasons for persecution of refugees and, in addition to conventional reasons for persecution, such as political persecution or civil war, to examine in particular:
    - persecution of refugees by non-state organisations,
    - persecution of women in certain states and regions, and the legislation laid down in such states and women's social position,
    - persecution of minorities;
  12. Wishes even greater attention to be given by the Union

to conflict prevention, with the Council and Commission cooperating closely via special European diplomatic staff in this area;

13. Concerned that, in its legal acts so far, the Commission has submitted no proposals on a common repatriation policy for asylum seekers whose applications have been rejected, and calls on the Commission to remedy this omission without delay;
14. Calls on the European Commission to develop resettlement programmes for asylum seekers whose applications have been rejected, devoting particular attention to ethnic minorities and unaccompanied minors;
15. Asks the Commission, the Council and the Member States to work closely together with the UNHCR, the High Commissioner for Refugees, and other important international organisations in order to enable them to fulfil effectively their coordinating role in the reception of refugees in regions affected by conflict. Appropriate financial support for the UNHCR from the Union and the Member States is urgently needed;
16. Given that relief for refugees in their own region is generally preferable to large flows of refugees to countries a long distance away and that the EU organisation ECHO carries out good work, but, in many third countries, calls for it to cooperate even more closely with the relief organisations of EU Member States and with the UNHCR in order to avoid fragmentation of assistance. EU delegations in third countries should play a coordinating role in this connection;
17. Considers that there is an urgent need to set up educational projects in refugee camps in regions affected by conflict, as such projects can help prevent large groups of young people who are denied an education for a long period going to countries far from their native land. Education should therefore come within the definition of humanitarian assistance;
18. Urges the Member States to make a formal request to the Commission for a Commission proposal on asylum prior to making use of the powers conferred upon them pursuant to Article 67(1) of the EC Treaty, and urges the Council to give full consideration to the views of the European Parliament pending the forthcoming introduction of co-decision in this area;
19. Instructs its President to forward this resolution to the Council and Commission.

## EXPLANATORY STATEMENT

### Introduction

Since the entry into force in May 1999 of the Amsterdam Treaty, asylum and immigration matters are no longer dealt with under the intergovernmental procedures in the third pillar. Instead, these issues fall within the first pillar, i.e. under Community competence, and are therefore subject to Community instruments and procedures as set out in the new Title IV on "*visas, asylum, immigration and other policies related to the free movement of persons*" of the EC Treaty. In particular, Article 63(1)(b) of Title IV of the EC Treaty calls on the Council to adopt, by 1 May 2004, "*minimum standards*" *inter alia* for the qualification of third country nationals as refugees and for procedures for granting and withdrawing refugee status. A broad interpretation and an ambitious objective was adopted by the European Council at its meeting in Tampere when it stated that "*in the longer term, Community rules should lead to a common asylum procedure and a uniform status for those who are granted asylum valid throughout the Union*".

By placing the areas of asylum and immigration within Community competence and including provisions aimed at ensuring the respect of human rights (e.g. Article 7 of the TEU and Article 13 EC Treaty), the Amsterdam Treaty ensured that the EU has a firm legal basis for the adoption of measures for the protection of refugees. This has been further reinforced by the adoption by the EU institutions of the EU Charter of Fundamental Rights. Furthermore, clear standards and principles for refugee protection and human rights exist in international law, notably in the Geneva Convention and the European Convention of Human Rights. Given the commitment made in Tampere to the 'full and inclusive' interpretation of the Geneva Convention, an EU regime for the protection of refugees should not undermine the existing international regime, but rather complement it.

### Objective and overall approach

The rapid increase in asylum applications since the end of the Cold War necessitates a new and harmonised approach to refugee protection within the EU and the development of different mechanisms for assessing claims fairly and efficiently.

The starting point for the common asylum policy must be to recognise that those seeking asylum are invariably desperate people who have taken many risks in order to find safety. This has not been the focus of all the measures affecting asylum seekers thus far, namely those aimed at combating illegal immigration. Measures to combat illegal immigration, which have been introduced by the Member States on the basis of their right of initiative, appear to start from the assumption that all those seeking entry to the EU are 'economic migrants', or are not in 'genuine' need of protection. Such proposals have upset the balance of the development of EU policy as envisaged in the Tampere conclusions.

The development of a common asylum policy should therefore refocus on the protection needs of desperate people, rather than solely on reducing the influx of persons. The future EU policy should be based on the initial assumption that those seeking asylum are in danger and in need of being granted asylum unless and until it is proven otherwise. A fair approach would be better able to identify those in most need, making the system inherently more

efficient, and should also achieve the political aim of eliminating abuse.

A balance has therefore to be achieved between policies on asylum as a whole, the policies being developed to combat illegal immigration and those concerning planned migration. Appropriate channels for planned migration and for asylum seekers should reduce the pressure on Member States to develop repressive measures against illegal immigration.

Furthermore, rather than concentrating on repressive measures, the antidote to forced migration must be to address its root causes. To this end, the future of asylum policy should not be a separate issue to be dealt with in isolation, but rather one which must also be addressed through foreign policy, development aid, commercial policy, environmental and other policy areas and with an awareness of the root causes of migration into the EU (political instability, poverty and, increasingly, environmental risks). Asylum policy should therefore be a horizontal consideration across relevant policies of the European Union.

The challenge posed by the numbers of asylum seekers is a global issue, not just a European one. The issue should not be whether or not the EU can afford such humanitarian protection in financial terms, but instead whether it can accept the clear principles and mechanisms that must be followed in order for the EU to satisfy its global humanitarian responsibilities.

In view of the forthcoming enlargement of the EU, it should also be the aim of both the Members States and the applicant countries to ensure that the high standards set by a common asylum policy can be attained as quickly as possible by the applicant countries.

### **Existing international refugee protection**

As confirmed in the conclusions of the Tampere European Council and in the EU Charter of Fundamental Rights, EU legislation in asylum matters must be based on respect for the Geneva Convention. A 'full and inclusive' interpretation of the Geneva Convention, to which the EU is committed, involves putting into practice the principles enshrined in the Convention (as established in international law and practice) as opposed to attempting to rewrite the Convention. In order to ensure that the EU respects the existing international regime for the protection of refugees, the UNHCR should play a significant role both in the development of the EU common policy [and in its subsequent application by the Member States].

With regard to the criteria for granting asylum, a common interpretation of the Geneva Convention means that the Member States must resolve existing differences in the interpretation of the Convention<sup>1</sup>. One important example is the extent of state involvement required to establish 'persecution' within the meaning of the Convention. The current practice differs significantly between Member States, with some Member States allowing individuals to seek asylum in their own country for reasons of non-state persecution and others refusing such applications. A 'full and inclusive' interpretation should guarantee a high level of protection, rather than adopting the lowest common interpretation of the Convention. The 'full and inclusive' common interpretation should therefore include the possibility of granting asylum in cases of 'non-state' persecution.

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<sup>1</sup> The Commission intends to present a proposal on the interpretation of the Geneva Convention (approximation of rules on the recognition and content of refugee status (directive)).

Another concern is that the common interpretation of the Convention should not permit the refusal of asylum on the basis of 'blanket' concepts, but should ensure that in every case an individual assessment will take place. For example, the use of the 'safe country of origin' concept may result in a negative decision being adopted primarily on the grounds that the country of origin is a recognised democracy with only a perfunctory assessment of the individual circumstances. Equally, applications from persons arriving from a general situation of violence should in all cases involve an individual assessment.

At the same time, it is clear that there is a need for complementary forms of protection for individuals not falling within the Geneva Convention and such protection should be harmonised across the EU so that the Member States do not use lesser forms of protection to dilute international law obligations.

Existing standards and best practice should be the basis for asylum procedures and measures to deal with the rapid increase in asylum applications and should also be taken into consideration as regards practical measures, such as broadening procedures to include more resettlement programmes for refugees and to develop more measures to combat the root causes of forced migration.

### **Aspects of the Communication**

The Communication aims to launch a debate on asylum, and is therefore an open document that raises questions and themes, rather than provides answers.

**Minimum standards:** Within the Communication, there is a recognition that the progress made on minimum standards over the coming months may assist in the process of convergence.<sup>1</sup> These measures will establish a short-term minimum level of harmonisation and the proposals so far leave much flexibility to the Member States. The development of a common policy will require the further harmonisation of procedures throughout the EU, and should aim to raise standards to the highest possible level of procedural protection for individual asylum seekers. This objective should not be prejudiced by the minimum standards agreed in the first stage of the process.

**Single procedure:** A single procedure whereby all those in need of protection are considered in one procedure is to be welcomed. Asylum can be a complex area, and those involved often have complex needs. It is therefore sensible to assess all claimants through the same 'one-stop shop' procedure, provided that this does not reduce the individual's possibility to gain refugee status under the Convention. The focus of a single procedure should be to obtain as much information as possible from the applicant at this first stage, 'front-loading' the effort towards the beginning of the process, thus ensuring an individual assessment and leading to a more well-informed decision that could reduce appeals later on, and so making the system more efficient.

**Procedural guarantees:** Consistent with an approach that puts the asylum seeker at the heart

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<sup>1</sup> The following proposals have already been communicated to the Parliament: Minimum standards for procedures on the granting and withdrawing of refugee status (Rapporteur: SCHMITT), Minimum standards for temporary protection in the case of a mass influx of refugees (Rapporteur: WIEBENGA), and Minimum reception standards for refugees (Rapporteur Hernandez Mollar).

of the process, measures to increase the efficiency of asylum systems, for example, the use of accelerated procedures for manifestly unfounded claims should be treated with caution. There is a risk that valuable parts of the procedure are dispensed with, resulting in poor decisions and future appeals. Furthermore, restricting the right of appeal for asylum seekers could be in breach of the EU Charter of Fundamental Rights since Article 47 guarantees the right to a fair and public hearing and effective access to justice for those whose rights are violated.

**Safe countries:** The Communication raises some of the options concerning the use of concepts such as 'safe country of origin' and 'safe third country' including the possibility that these concepts could be abandoned. It would clearly be preferable not to use the 'safe country of origin' concept since this involves categorising an applicant according to his or her nationality and applying a different, and therefore discriminatory, procedure, in contravention of the principle of non-discrimination in Article 3 of the Geneva Convention. If the 'safe country of origin' concept is considered necessary, it should not automatically prevent individuals from such countries from gaining refugee status.<sup>1</sup> Similarly, any use of 'safe third country' concepts should be closely monitored to ensure that Member States do not transfer asylum applicants to countries unless they are satisfied that the applicant's rights will be safeguarded to the same level as would have been applied by that Member State.<sup>2</sup>

Both concepts ('safe country of origin' and 'safe third countries') shifts the focus away from the protection needs of the individual and therefore should either be avoided or only used with adequate precautions. It is essential that standards for categorisation of a country as 'safe' are high, including continuous monitoring, and that a harmonised approach is taken by the Member States as to what constitutes a safe or unsafe country. Furthermore, it is imperative that an individual assessment is maintained in such cases to reduce the risk of individuals being sent back to a country in which they are at risk, the principle of non-refoulement (Article 3 of ECHR and Article 19(2) of the EU Charter of Fundamental Rights).

**Single status:** With regard to those that qualify for refugee status or complementary forms of protection, the principle should be that all those in need of protection, whether under full refugee status or a complementary form of protection, are accorded the same substantive rights and are bestowed the same responsibilities. In terms of what these substantive rights should include, the EU Charter of Fundamental Rights confirms certain rights for everyone in the EU, including the right to respect for his or her private and family life, home and communications (Article 7), the right to free education in establishments that respect their religious, philosophical and pedagogical convictions (Article 14). Consistency, between refugee status and complementary forms of protection nevertheless should not mean that rights accorded to complementary forms of protection should act as a ceiling on what is to be

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<sup>1</sup> Recent cases have shown that individuals worthy of asylum can be denied asylum due to the fact they come from a safe country of origin. US citizen, Ritt Goldstein, was refused asylum in Sweden on the basis that the US is a safe country, despite the fact that as an individual he suffered persecution there (Petition 20/2000 by Messrs Michael Williams and Nicholas Busch on behalf of Mr Richard Goldstein on Mr Goldstein's political asylum in Sweden).

<sup>2</sup> The application of this principle may result in countries declining to transfer an applicant to other EU Member States where the same level of protection cannot be guaranteed. In the case of *Adan v The Secretary of State* ((1999) 1 A.C. 293), the UK Secretary of State accepted that "for him to send back a person to a state which would itself send the applicant to the country where he feared persecution would itself be a breach of his obligations" (Lord Slynn of Hadley, Opinion of the House of Lords Appeal, 19 December 2000), and thus he refused to send Adan back to Germany to have his application processed, knowing that Germany would consider Somalia to be 'safe' for Adan, whilst the UK would not.



granted to those that qualify for refugee status.

**Integration:** Furthermore, the issue of the single status also raises the question of the integration into society of refugees and others granted protection. Access to the labour market should be considered as in the debate on how to integrate those with persons into society. Measures should also be developed to facilitate integration from protection to possible nationality status.

**Returns:** Some persons however will not qualify for humanitarian protection under either the Geneva Convention or the complementary protection instrument and these persons should have a final procedure prior to deportation. Those which are not permitted to remain may be required to leave but voluntary returns should be encouraged and only as a last resort can forced returns be imposed.

**Mutual recognition:** It is recognised that the mutual recognition of judicial decisions will become an increasingly important element of the EU area of freedom, security and justice and in theory there is no reason why mutual recognition of negative decisions should not apply to asylum decisions once the interpretation of the Geneva Convention by the Member States has been harmonised.

**Access to the EU:** As well as considering reception conditions for asylum-seekers within the Union, further consideration should be given to how best to ensure that all those in need of protection gain access to the asylum procedure either through better access to EU territory or through complementary mechanisms to enable asylum applications to be made outside the EU. Such mechanisms should be developed in consultation with the UNHCR and other international organisations.

**Resettlement:** The decision to introduce a study on resettlement programmes is to be welcomed, and participation by the Member States in the UNHCR Resettlement programme is to be encouraged.

**Statistics:** The provision of all asylum statistics should be improved, so that more accurate comparisons of the migratory flows to and between Member States can be made.

**OPINION OF THE COMMITTEE ON FOREIGN AFFAIRS, HUMAN RIGHTS,  
COMMON SECURITY AND DEFENCE POLICY**

for the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs

on the Communication from the Commission to the Council and the European Parliament, 'Towards a common asylum procedure and a uniform status, valid throughout the Union, for persons granted asylum'  
(COM(2000) 755 – C5-0101/2001 – 2048/2001 (COS))

Draftsman: Hanja Maij-Weggen

**PROCEDURE**

The Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy appointed Hanja Maij-Weggen draftsman at its meeting of 20 March 2001.

It considered the draft opinion at its meeting of 26 June 2001.

At this meeting it adopted the following conclusions unanimously.

The following were present for the vote: Elmar Brok, chairman; William Francis Newton Dunn, 2nd vice-chairman and Catherine Lalumière, 3rd vice-chairman; Hanja Maij-Weggen, draftsman; Alexandros Baltas, Daniel Marc Cohn-Bendit, John Walls Cushman, Rosa M. Díez González, Andrew Nicholas Duff (for Paavo Väyrynen), Pere Esteve, Per Gahrton, Vitaliano Gemelli (for Jas Gawronski), Bertel Haarder, Giorgos Katiforis (for Ioannis Soulidakis), Alain Lamassoure, Pedro Marset Campos, Linda McAvan, Philippe Morillon, Arie M. Oostlander, José Ignacio Salafranca Sánchez-Neyra, Hannes Swoboda, Demetrio Volcic for Pasqualina Napoletano)

## SHORT JUSTIFICATION

### I Commission and Council action in the area of asylum

1. Action by the European Union in connection with the admission of refugees from third countries and their status is based on the Geneva Convention of 1951 and the 1967 Protocol. The definition of a refugee given in the Convention is a person who 'owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country'.

All EU Member States have ratified the Geneva Convention and the 1967 Protocol, thereby undertaking to receive refugees where necessary in accordance with the Convention.

2. In 1990 EU Member States adopted the Dublin Convention. This replaced a similar arrangement between the Schengen countries. Under the Convention, which came into effect in 1997, the order of criteria for determining the Member State responsible for examining applications for asylum are the Member State which has already received family members of the person concerned, the Member State for which the person concerned has a visa or other proof of permission to enter the country, or the Member State where the applicant for asylum first arrived.

3. Under the Amsterdam Treaty (1998), asylum and immigration policy was brought within the first pillar, and the task set of developing within five years of ratification of the Treaty a programme of cooperation in this area of policy. It was agreed that a Directorate-General responsible for this area would be set up within the Commission in order to help get a European programme of asylum and migration policy cooperation under way.

4. In 1999 the Tampere summit gave more concrete shape to an asylum and migration policy, *inter alia* proposing a common European asylum system (based on the Geneva Convention and Protocol) and a common migration policy, the approximation of judicial procedures in connection with asylum and migration and stepping up the fight against organised crime, with Europol's role being strengthened. It is well known that international criminal organisations exploit refugees and flows of refugees for their own gain.

5. Under the Nice Treaty, which has still to be ratified, asylum and migration policy is to be developed further into a Community policy by 2004, with a right of initiative for the Commission, Council decisions taken in part by Q.M.V. and Parliament having in part co-legislative powers.

6. The Communication from the Commission on a common asylum procedure and a uniform status, valid throughout the Union, for persons granted asylum, together with the Commission's Communication on migration, should be seen as taking forward the tasks set at Tampere and Nice.

## **II The nature of the Communication**

1. The present Communication does not include any concrete proposals for a directive or a regulation on asylum procedures or asylum status for refugees, but rather contains a number of ideas and proposals regarding areas to be examined with a view to preparing for such measures. The Communication is cautiously worded.

2. In terms of its substance, the Communication is intended primarily to point the way to how a common procedure for admission of refugees in all EU states and greater approximation of criteria and mechanisms for dealing with asylum seekers can be achieved, and to developing a uniform status valid throughout the Union, where a request for asylum is recognised, with approximation of accompanying documents.

In addition, the Communication concerns the setting up of a common system as regards information and exchange and evaluation of data relating to third countries, together with related aspects of external policy.

3. The first three aspects referred to fall within the responsibility of the Committee on Citizens' Freedoms and Rights. The aspect relating to information on third countries and the exchange and evaluation of such information comes within the responsibility of the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy. The same applies, of course, to related aspects of external policy.

## **III Political context**

1. The Communication comes at a time of growing concern on the part of a sizeable section of the population about asylum and migration issues. Such alarm is partly in response to the large numbers of applications for asylum in several European Member States and the great difficulty which Member States have in processing claims and absorbing refugees. Since 1985 more than 5 million asylum seekers have been admitted to the Union, with a peak occurring in 1992/1993. Of these, Germany received nearly 2.5 million, France and the UK more than half a million respectively, the Netherlands over 400 000 and Sweden over 350 000.

2. The alarm on the part of citizens is also in response to the large numbers of people from third countries who - taking advantage of the possibility of applying for asylum - actually come to Europe as economic migrants. Exploitation of flows of refugees by criminal organisations is a further aspect about which there is great concern.

At the same time, there are many examples of European Member States, welfare organisations and individual citizens showing a heart-warming and generous attitude towards refugees who often have a traumatic history and who have had to travel a very long way in order to reach a place of safety for themselves and their families.

3. Precisely in order to be able properly to take care of genuine refugees, it is necessary to distinguish properly between asylum seekers and migrants. The Commission's second Communication on migration policy in the Union is therefore very important. The clearer the rules with regard to migration in the EU Member States, the smaller is the risk of two completely different groups seeking admission to the European Union being confused, to the

cost of genuine refugees.

4. As the Commission points out in its Communication, a jointly-formulated asylum policy calls for properly coordinated joint analysis and evaluation of the situation in third countries and consistent conclusions regarding the degree of safety or otherwise of particular citizens of such countries.

Since 1992 there have already been some exchanges of information via the Centre for Information, Reflection and Exchange on Asylum, also known as CIREA, set up by the Council. Since 1994 such exchanges have produced a number of reports on third countries, including Iraq, Georgia, Azerbaijan, Sri Lanka, Nigeria, Turkey and the then Zaire. The reports were drawn up following consultation with the UNHCR, and have not been made public. CIREA is an intergovernmental body within the Union. The Commission's involvement in CIREA is limited.

5. The setting up in 1998, under the Council, of the High Level Working Group on Asylum and Migration, which also aims to produce regularly updated country analyses, has resulted in a dual structure.

The Commission is represented, and actively involved, in this High Level Working Group.

Initially, particular Member States were given responsibility under the Group for particular country analyses (for example, Germany for Iraq, Italy for Albania, the Netherlands for Afghanistan, Austria for Kosovo, Spain for Morocco, the UK for Sri Lanka and Sweden for Somalia). There has since been a widening of sources. However, there is little in the way of any formal relationship between CIREA and the High Level Working Group, which, naturally, is not conducive to producing good joint country analyses.

6. It goes without saying that joint country analyses to help answer the question of whether or not Member States should grant asylum to certain refugees are very important, as are common conclusions regarding the asylum policy to be pursued. To date it remains the situation that asylum is granted to refugees from particular third countries by one EU Member State and not by others, or that Member States have different opinions on the issue of whether the human rights situation in particular third countries is serious enough to justify taking particular measures.

However, in an EU with open borders, differences in policy on admission are untenable, and in an EU with a common external policy it is completely the wrong approach to speak with more than one voice in relation to particular countries. This weakens the EU's position and strengthens the position of dubious governments.

7. In the light of the task set of making a start by 2004 with a genuine Community asylum and migration policy, greater cooperation is required and the Commission needs to play a coordinating role, involving both Commission staff in Brussels and EU delegations in third countries. The question arises of whether EU country reports should be drawn up by one or by several Member States. It is preferable to have such work carried out by the embassies and foreign office staff of several Member States, with a coordinating role for the local EU delegation and Commission and Council staff, making such reports more objective and precise.

8. A completely different aspect, but one which has a major impact on possible flows of refugees, is the assistance provided in refugee camps in third countries with internal problems or in neighbouring countries. Effective relief on the spot can encourage people to remain in the region, making it easier for them to return to their own countries when the problems which caused them to leave have been solved.

The European Union body ECHO is available for this purpose and provides a great deal of assistance, often via specialised NGOs. Member States have their own programmes in this area, often carried out in cooperation with NGOs. The coordinating role in connection with such assistance should lie with the UNHCR, which, however, is faced with a serious lack of resources.

The EU should increase its support to the UNHCR again, to enable the UN body to fulfil its task more effectively. At the same time, the local EU delegation should encourage greater cooperation between EU Member States.

9. Finally, the EU should, to an even greater extent than previously, undertake preventive diplomacy whenever there is the threat of conflicts that could create large flows of refugees. Diplomatic action to bring escalating conflicts under control as quickly as possible is necessary in order to avert a disaster in the countries concerned. Cooperation between the diplomatic service staff of the Member States and the staff of Messrs Solana and Patten is highly desirable.

10. The Union should give due consideration to whether the resources devoted at present to conflict prevention and assistance for refugees on the spot or in the region are in a proper proportion to the resources devoted by the EU and its Member States to the reception and integration of refugees/asylum seekers in the EU itself.

## CONCLUSIONS

The Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy calls on the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs, as the committee responsible, to incorporate the following points in its motion for a resolution:

### IV Recommendations of the Committee on Foreign Affairs

1. Parliament wishes even greater attention to be given by the Union to conflict prevention, with the Council and Commission cooperating closely via special European diplomatic staff in this area.
2. The UNHCR and the High Commissioner for Refugees must be able to fulfil their coordinating role in relief for refugees in regions affected by conflict effectively. More support for the UNHCR from the Union and the Member States is urgently needed.
3. Relief for refugees in their own region is generally preferable to large flows of refugees to countries a long distance away. The EU organisation ECHO carries out good work, but, in many third countries, it should cooperate even more closely with the relief organisations of EU Member States and with the UNHCR in order to avoid fragmentation of assistance. EU delegations in third countries should play a coordinating role in this connection.
4. Setting up educational projects in refugee camps in regions affected by conflict can help prevent large groups of young people who are denied an education for a long period going to countries far from their native land. Education should therefore come within the definition of humanitarian assistance.
5. Country reports for the purpose of providing EU Member States with an insight into the situation in countries giving rise to flows of refugees should, in order to enable greater objectivity, preferably be drawn up by the diplomatic staff of several EU Member States, with the diplomatic staff of the European Commission playing a coordinating role.
6. In the drawing up of country reports, the views of the UNHCR, the International Red Cross and NGOs in the area of human rights should also be taken into consideration.
7. It is imperative that EU Member States present a common front on the admission of refugees. The current situation in which refugees from particular countries are admitted by some EU countries and not by others must as quickly as possible become a thing of the past. The concept of 'safe countries' needs to be defined unequivocally.
8. EU Member States and the European Union should also speak with one voice as regards their position on human rights and democracy vis-à-vis third countries. Differing opinions, translated into differences in policy, weaken the Union's external policy and strengthen governments which do not observe principles of democracy and human rights.
9. Country reports by the EU should be made public, as should the conclusions on which the concept of 'safe countries' is based.





20 June 2001

## **OPINION OF COMMITTEE ON PETITIONS**

for the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs

on a common asylum procedure and a uniform status, valid throughout the Union, for persons granted asylum  
(COM(2000) 755 – C5-0101/2001 – 2001/2048 (COS))

Draftsman: Luciana Sbarbati

### **PROCEDURE**

The Committee on Petitions appointed Luciana Sbarbati draftsman at its meeting of 6 March 2001.

It considered the draft opinion at its meeting of 19 and 20 June 2001.

At the latter meeting it adopted the following conclusions unanimously.

The following were present for the vote: Vitaliano Gemelli, chairman; Roy Perry, first vice-chairman; Proinsias De Rossa, second vice-chairman, Luciana Sbarbati, third vice-chairman and draftsman; Felipe Camisón Asensio, Laura González Álvarez, Vasco Graça Moura, Christopher Heaton-Harris (for Jonathan Evans pursuant to Rule 153(2)), Jean Lambert, Ioannis Marinos, Véronique Mathieu, María Sornosa Martínez, Christian Ulrik von Boetticher and Eurig Wyn.

## SHORT JUSTIFICATION

1. The right of asylum for those fleeing political persecution is enshrined in the constitutions of all of the Member States but one. All have ratified the 1951 Geneva Convention and other international Conventions on the matter and have adopted detailed legislation on asylum. It is important to stress, however, that the legislation in force varies greatly from one Member State to another, and that even on the basis of a strict interpretation of the law alone, an asylum seeker will be treated differently according to the Member State in which he first arrives. A brief examination of a comparative study on the right to asylum, the subject of an extremely interesting book<sup>1</sup>, confirms this. This difference is accentuated by the case law of national courts. A recent ruling by the Italian constitutional court, for example, granted political refugees the right to family reunification.
2. Recently, new provisions introduced in the Member States have served to restrict refugees' initial entry to the State: some countries make submission of an application for asylum conditional upon production of valid travel documents or a current visa, which is clearly impossible for genuine asylum seekers fleeing war or interethnic killing. This has meant that the proportion of applicants admitted over recent years has fallen, while applications have risen. In France, applications for asylum rose by 25.5% between 1999 and 2000, from 30 907 to 38 777, but the rate of admission fell from 19.4% to 17.1%.
3. Many countries penalise airlines who carry passengers without valid travel documents, with the result that asylum seekers may be denied access to planes leaving their country, and face long waits at arrival airports, sometimes living there for several years, while a decision on the admissibility of their application for asylum is reached. Other laws provide for the possibility of deporting the asylum seeker while an appeal is under way, particularly in cases where the request is 'manifestly unfounded'. In a previous opinion your rapporteur condemned a recent proposal for a directive by the French Presidency - later rejected by Parliament - proposing administrative cooperation between Member States, to the disadvantage of immigrants and asylum seekers<sup>2</sup>. Your rapporteur denounced, in particular, the conditions in facilities where asylum seekers were held. A report by Amnesty International and other humanitarian organisations recently condemned outright the situation of widespread violence in one Member State, where asylum seekers were humiliated, insulted, attacked, hit and even beaten up.

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<sup>1</sup> L. Jeannin, M. Meneghini, C. Pauti and R. Poupet, 'Le droit d'asile en Europe - Etude comparée', Edition L'Harmattan, 1999.

<sup>2</sup> Opinion of the Committee on Petitions on the report by the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs (Nassauer report - A5 - 0394/2000) on the initiative of the French Republic with a view to adopting a Council Directive on mutual recognition of decisions on the expulsion of third country nationals

4. The growth in the numbers of people seeking asylum in recent years<sup>1</sup> raises serious problems for the Member States, which they tackle with some difficulty. The growing incidence of unaccompanied minors seeking asylum, for example, raises additional difficult legal issues. And now, against a background of widespread electoral campaigning, we cannot ignore the fact that some States, by no means the less democratic among them, and including those with a long tradition of welcoming refugees, have announced that they intend to implement reforms limiting the right to asylum, and even to introduce criminal penalties for any immigrant in an irregular situation. Your rapporteur's reaction to such proposals, which bear the hallmark of nationalist self interest and even overt racism and are contrary to the values of democracy, humanism, welcome and respect for the rule of law, values which we must continue to embrace, is one of indignation and revulsion.
5. The Committee on Petitions, which has received numerous urgent and distressing appeals from political refugees, is strongly in favour of this communication and the Community rules the Commission wishes to introduce.
6. The Committee on Petitions has taken account of the criticisms made by the High Commissioner for Refugees concerning the Member States' asylum policies, with which, as a former Prime Minister of one of the States with the most advanced asylum laws, he is particularly well acquainted. The conclusions of the High Commissioner's report on asylum policy in one of our Member States, published in March are valid, to a greater or lesser extent, for all Member States. He draws attention to the fact that within the Community, a particular blow has been dealt to asylum policy by Governments' decision to reinforce measures restricting access to the Union, including a greater police presence at borders, checks on airlines and penalties for haulage contractors. All of these measures place more obstacles in the path of those fleeing persecution. The document claims that *refugees are forced to use clandestine immigration networks* and calls for *the granting of visas for the purposes of asylum* by embassies, to protect persons forced to flee their country.
7. The HCR also expressed concern at the lack of legal safeguards for asylum seekers and the practices that develop as a result. Border police frequently refuse to listen to a request for asylum, and view such persons simply as illegal immigrants. They are thus not given the appropriate forms to fill in and receive no information on their rights. The foreigners are left in the international zone to await return to their country of departure. Alternatively, they may be detained in police premises unsuited to the purpose, to which NGOs are denied access. The HCR also notes that the border police decide, on the basis of the person's appearance alone, whether or not they are 'genuine' asylum seekers, irrespective of the language they speak. In addition, appeals where applications are rejected are not suspensive. Your rapporteur could continue, but the list is practically endless.
8. Debates of the Parliamentary Assembly of the Council of Europe can be highly instructive in gaining a more comprehensive picture of the problems connected with the

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<sup>1</sup> In 2000 the United Kingdom received 80 000 asylum seekers, while in France 40 000 were registered by the office for protection of refugees and stateless persons.

right of asylum. It has addressed this subject on numerous occasions<sup>1</sup>, and the Council's Committee of Ministers has adopted several recommendations. These debates also help to provide an idea of the situation in the applicant countries of Central and Eastern Europe. Your rapporteur also wishes to highlight the impact that decisions of the European Court of Human Rights can have on the right of asylum. For example, it has just declared admissible a case on the collective expulsion by Belgium in 1999 of Slovakian Roma, whose applications for asylum were dismissed even though they had lodged an appeal.

9. A further source of information is the NGOs who work unceasingly to improve the law and treatment of refugees in our Member States. The Committee on Petitions supports them, and would like to take this opportunity to pay a warm tribute to the selfless and generous work of all those working in these organisations to ease human suffering.
10. It is impossible for your rapporteur to incorporate all the wishes of those organisations working at the grass roots. But the most important, in no particular order, include: the ability for NGOs to give direct assistance to political refugees in holding centres with a view to family reunification, shorter time limits for granting refugee status, access for refugees to their own money, authorisation to work, a certain degree of geographical mobility and access to healthcare.
11. Among the measures that should be included in future Community legislative texts - in the opinion of your rapporteur - is an extension of protection to other groups of refugees, in accordance with the Geneva Convention. Procedures should be simplified and provide asylum seekers with all the necessary safeguards to guarantee independence from all direct or indirect governmental pressure. Consistency dictates that Member States' accession to the European Convention for the Protection of Human Rights and the Community's adoption of the Charter of Fundamental Rights ought to open access to the asylum procedure to victims of treatment contrary to this Convention and to these same fundamental rights, and to persons fearing for their lives because of a situation of widespread violence in their country.
12. There is a general awareness that the Geneva Convention is inappropriate for dealing with emergency situations - which often unfold before our very eyes - involving an exodus of thousands, or even hundreds of thousands, of persons fleeing genocide or its embodiment in the form of 'ethnic cleansing'. As citizens of States where the rule of law is respected, we must insist on the absolute necessity of asylum seekers being granted access to a lawyer at each stage of the procedure and on the need to ensure that there is a guaranteed right of appeal if the application for asylum is rejected on a temporary or permanent basis.

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<sup>1</sup> 'Asylum' debates - Parliamentary Assembly - Council of Europe, 1995.

13. A quote from a small article in a Belgian paper dated 23/24 May 2001 reads as follows: '...sexual, physical or verbal abuse and maltreatment suffered by innocent female asylum seekers detained in Krome prison. React: Amnesty.' Your rapporteur shuddered at the thought. The fact that this happened in a prosperous European State was small consolation.

## CONCLUSIONS

The Committee on Petitions wishes to draw the attention of the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs to certain aspects of asylum law with which it has become acquainted through petitions it has received. On the other aspects, it defers to the committee responsible, which gained additional knowledge of issues connected with immigration and asylum policy from statements by experts at a hearing held on 21 March 2001.

The Committee on Petitions calls on the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs, as the committee responsible, to incorporate the following points in its motion for a resolution:

*The European Parliament,*

- A. whereas national legal provisions in this area vary from State to State; whereas, however, it is necessary, in establishing a common European legal area, to create common legal standards for asylum as in other areas of law,
- B. whereas the Union will be better able to combat abuse of the right of asylum for purely economic purposes if it adopts clear, precise and transparent rules to curb illegal immigration,
- C. stressing the role played in the United Nations by the High Commissioner for Refugees and his remarks on the asylum policies of the Member States of the Union,
- D. expressing its warm appreciation of the work to assist asylum seekers carried out by NGOs and other voluntary organisations,
- E. mindful of the dreadful conditions in the centres where asylum seekers are held often without adequate legal representation,
- F. expressing its concern at the influx of asylum seekers from geographical zones where they are persecuted collectively because of their membership of a particular ethnic, cultural or religious group,
- G. mindful of the need to eliminate the organised networks and 'traffickers' that exploit shamefully the misery of asylum seekers and often lead them to their deaths,
- H. recalling the numerous petitions received by the Committee on Petitions,
  - 1. Hopes that the proposal for a directive adopted by the Commission in April 2001 on minimum rules for asylum procedures will complete the legislative process quickly;
  - 2. Recalls that asylum seekers will in future be free to apply in respect of their asylum procedure to the Committee on Petitions of the European Parliament;
  - 3. Expresses its concern at the restrictive application of rules on political refugees, which causes a corresponding rise in illegal immigrants, and also its concern that asylum

seekers' hopes of being permitted to remain in the Member States are shamefully exploited by clandestine immigration networks;

4. Calls for access to the asylum procedure to be extended to victims of treatment contrary to the European Convention for the Protection of Human Rights and the Charter of Fundamental Rights of the European Union and to persons fearing for their lives because of a situation of widespread violence in their country;
5. Considers that asylum seekers and family members accompanying them must be provided with decent accommodation, food, clothing and daily benefits providing a minimum level of resources for the length of the asylum procedure, the duration of which must be reduced significantly through the use of efficient, just and effective procedures;
6. Asks that asylum seekers be granted a limited right of movement within the host State and the right, subject to certain conditions, to seek employment;
7. Considers that on arrival in the European Union, all asylum seekers must be given information, in a language they understand, concerning their fundamental rights and those corresponding to their status, and must be able to communicate with the outside world and with legal representatives and NGOs in particular;
8. Is concerned that, in its legal acts so far, the Commission has submitted no proposals on a common repatriation policy for asylum seekers whose applications have been rejected, and calls on it to remedy this omission without delay;
9. Considers that, in the context of this policy, the EU Member States will be called upon to encourage and organise voluntary return to the country of origin for asylum seekers whose applications have been rejected, and to offer them material aid as well as other forms of support;
10. Calls on the European Commission to develop resettlement programmes for asylum seekers whose applications have been rejected, devoting particular attention to ethnic minorities and unaccompanied minors;
11. Considers that the European Commission and the Member States must take appropriate, positive action in response to the call by the High Commissioner for Refugees for improved mutual cooperation;
12. Considers that fifty years on, the 1951 Geneva Convention remains as relevant as ever, and deserves to be updated and its scope extended to reflect current patterns of collective flows of political refugees.