

# EUROPEAN PARLIAMENT

1999



2004

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*Session document*

FINAL  
**A5-0257/2002**

22 July 2002

## REPORT

on asylum: common procedure and internal security  
(2002/2053(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 28 November 2001, the Commission forwarded to Parliament a communication on the common asylum policy, introducing an open coordination method (First report by the Commission on the application of Communication COM(2000) 755 final of 22 November 2000 (COM(2001) 710 – 2002/2053(COS))).

By letter of 5 December 2001, the Commission also forwarded to Parliament a working document on the relationship between safeguarding internal security and complying with international protection obligations and instruments (COM(2001) 743 – 2002/2053(COS)).

At the sitting of 11 March 2002 the President of Parliament announced that he 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 for its opinion (C5-0107/2002).

At the sitting of 14 March 2002 the President announced that he had also referred the working document to the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs as the committee responsible and the Committee on Legal Affairs and the Internal Market for its opinion (C5-0129/2002).

At the sitting of 24 April 2002, the President announced that he had also referred the documents to the Committee on Petitions for its opinion.

The Committee on Citizens' Freedoms and Rights, Justice and Home Affairs had appointed Robert J.E. Evans rapporteur at its meeting of 18 December 2001.

The committee considered the Commission communication and working document and the draft report at its meetings of 23 May 2002, 17 June 2002 and 9 July 2002.

At the last meeting it adopted the motion for a resolution by 27 votes to 17.

The following were present for the vote: Robert J.E. Evans, acting chairman and rapporteur; Lousewies van der Laan and Giacomo Santini, vice-chairmen; Maria Berger (for Michael Cashman), Alima Boumediene-Thiery, Kathalijne Maria Buitenweg (for Pierre Jonckheer), Charlotte Cederschiöld, Carmen Cerdeira Morterero, Ozan Ceyhun, Carlos Coelho, Thierry Cornillet, Gérard M.J. Deprez, Giuseppe Di Lello Finuoli, Francesco Fiori (for Marcello Dell'Utri pursuant to Rule 153(2)), Gerardo Galeote Quecedo (for Jorge Salvador Hernández Mollar), Fiorella Ghilardotti (for Sérgio Sousa Pinto pursuant to Rule 153(2)), Adeline Hazan, Anna Karamanou (for Margot Keßler), Eva Klamt, Alain Krivine (for Ole Krarup), Baroness Sarah Ludford, Eryl Margaret McNally (for Walter Veltroni pursuant to Rule 153(2)), Manuel Medina Ortega (for Martine Roure), Hartmut Nassauer, Arie M. Oostlander (for Timothy Kirkhope), Elena Ornella Paciotti, Hubert Pirker, Jacques F. Poos (for Martin Schulz pursuant to Rule 153(2)), Reinhard Rack (for Ana Palacio Vallelersundi pursuant to Rule 153(2)), Heide Rühle, Agnes Schierhuber (for Giuseppe Brienza pursuant to Rule 153(2)), Olle Schmidt (for Bill Newton Dunn), Ingo Schmitt (for Bernd Posselt), Ilka Schröder, Ole Sorensen, Patsy Sörensén (for Francesco Rutelli), The Earl of Stockton (for Mary Elizabeth Banotti), Joke Swiebel, Fodé Sylla, Anna Terrón i Cusí, Maurizio Turco, Christian Ulrik von Boetticher, Christos Zacharakis (for The Lord Bethell) and Olga Zrihen Zaari (for Gerhard Schmid).

The opinion of the Committee on Petitions is attached; the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy decided on 25 February 2002 and the Committee on Legal Affairs and the Internal Market decided on 27 March 2002 not to deliver an opinion.

The report was tabled on 22 July 2002.

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 asylum: common procedure and internal security (2002/2053(COS))

*The European Parliament,*

- having regard to the Commission communication (COM(2001) 710 – C5-0107/2002)<sup>1</sup>,
  - having regard to the Commission working document (COM(2001) 743 – C5-0129/2002)<sup>2</sup>,
  - having regard to Article 63 of the EC Treaty,
  - having regard to Title IV of the EC Treaty and all the Commission proposals made for the development of a common asylum policy as listed in the Commission Scoreboard,
  - having regard to the Geneva Convention 1951, the Protocol of 1967, the conclusions of the UN Human Rights Committee, the UNHCR Handbook on Procedures and Criteria for Determining Refugee Status and the UNHCR's 'The exclusion clauses: guidelines on their application' as well as the Convention Against Torture,
  - having regard to the European Charter of Fundamental Rights and recalling in this connection its obligations under the Charter concerning asylum policy,
  - having regard to the European Convention on Human Rights, the jurisprudence of the European Court of Human Rights and in particular, Protocols 6 and 13 to the European Convention on Human Rights,
  - 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 opinion of the Committee on Petitions (A5-0257/2002),
- A. whereas it is important for the European Union, as an area of freedom, security and justice, to establish a genuine common asylum policy granting refugee status to all those who deserve it in accordance with the Geneva Convention,
- B. whereas the Parliament stresses that the open co-ordination method should strengthen rather than substitute legislative methods, should achieve a full and inclusive interpretation of the Geneva Convention, and should encourage convergence towards higher standards in the second phase of legislation,
- C. whereas the Parliament welcomes the methods proposed by the Commission, including bench-marking, target-setting strategic guidelines and monitoring,
- D. whereas the open co-ordination method must be specifically adapted to asylum policy in order to ensure that 'best practice' reflects the fulfilment of international humanitarian obligations by Member States and contributes to higher standards and legal certainty in asylum processes and reception conditions,

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

<sup>2</sup> Not yet published in the OJ.

- E. whereas the Parliament welcomes the European guidelines on asylum covering migratory flows, an efficient asylum system, returns policy, integration of refugees, but stresses the need to prioritise the development of a fair and effective asylum procedure,
- F. whereas the Parliament considers that arrangements for the protection of refugees and asylum seekers must be given the same importance as policy designed to control migratory flows and combat the activities of organised criminals seeking to exploit would-be migrants and asylum-seekers,
- G. whereas the Parliament calls for the introduction of effective measures at national level to ensure respect for the human dignity of incoming asylum seekers,
- H. whereas the Parliament stresses the importance of giving particular attention to the needs of unaccompanied minors and female applicants for refugee status,
- I. whereas the Parliament strongly supports the full involvement of candidate countries in the open co-ordination method, in order to ensure full application of the EU acquis on asylum policy upon accession,
- J. whereas Parliament welcomes the exchange of information on countries of origin, transit, violations of human rights violations and methods of entry, but regrets its lack of a formal role in this process,
- K. whereas the Parliament stresses the importance of adequate training for those concerned, i.e. diplomatic and consular staff, police and border officials and members of the various appeals bodies, enabling them to deal with problems specifically relating to the right of asylum,
- L. whereas the Parliament stresses the importance of the contributions which must be made by the community, those involved at local and regional level, the two sides of industry, the NGOs and asylum-seekers themselves in seeking to resolve this problem,
- M. whereas the Parliament welcomes the tightening of EU security, but stresses that measures introduced to guarantee security must be proportionate, effective and safeguard human rights;
- N. whereas the Parliament welcomes the Commission's commitment to basing exclusion on Articles 1(f) and 32 of the Geneva Convention ("the exclusion clauses") and to preventing automatic bars to the asylum procedure,
- O. whereas the extradition of individuals to countries in which they could fall victim to the death penalty risks breaching the European Convention on Human Rights and is inconsistent with the recent signature by the EU Member States of Protocol 13 to the ECHR which would abolish the death penalty in all circumstances, including war,
- P. whereas the treatment of those excludable from the Geneva Convention but non-removable from EU territory varies between Member States and the different situations which would result in this status are ill-defined,
- Q. whereas the suggested use of asylum seekers' biometric data such as DNA in the asylum procedure and for criminal investigation purposes raises many concerns,
- R. whereas the withdrawal of refugee status must only be considered when there are serious reasons for considering that the individual has been involved in terrorist activities or other criminal offences pursuant to Articles 29 and 31(e) of the Treaty on European Union,
- S. whereas the Parliament attaches particular importance to improved awareness of policies followed concerning the return of refugees, including forceable return procedures applied by the Member States,

- T. whereas clarification is needed on the procedures which would apply where extradition is requested during the examination of asylum applications or in future cases where a European Arrest Warrant is issued,
- U. whereas the jurisdiction of the International Criminal Court will come into effect from 1 July 2002,
1. Notes that the asylum procedure is often the only way in which to gain access to EU territory and calls on the Commission and Member States to prioritise the construction of a common immigration policy in order to relieve pressure on the asylum system;
  2. Calls for the various procedures for granting refugee status to be accelerated;
  3. Calls on the Commission to ensure that the 'best practice' to be followed under the European guidelines on asylum will be based first and foremost on ensuring Member States' fulfilment of their international protection obligations;
  4. Calls on the Commission to seek to ensure that the open co-ordination method results in a correct application of EU legislation and the Geneva Convention and to guard against political imbalance in the targets established under the open co-ordination method;
  5. Calls on the Commission to ensure an holistic approach to asylum and migration issues by integrating them as horizontal policy objectives into all policy areas, particularly policies with an external dimension, such as trade, development, environment and agriculture;
  6. Calls for improved cooperation with NGOs, the United Nations High Commissioner for Refugees and with host countries under the auspices of the Commission;
  7. Calls on the Commission in its future annual reports to comment on the progress towards the objectives set out by the European Parliament in its resolutions and to increase formal and informal dialogue with the Parliament on all aspects of asylum policy, including the open coordination method;
  8. Reminds the Commission and Member States to ensure that all cases of exclusion, extradition or prosecution comply with international law, in particular the Geneva Convention 1951 and the European Convention on Human Rights, and to respect the principle of *non-refoulement*;
  9. Calls on the Commission and Member States:
    - to interpret the Geneva Convention exclusion clauses 'restrictively and with caution' as recommended by the UNHCR Expert Roundtable on Exclusion,
    - to ensure that the inclusive aspects of the Geneva Convention are considered before any exclusion clauses and that accelerated or admissibility procedures are not routinely applied in such cases,
    - to ensure that there is not routine consideration of the exclusion clauses in asylum claims and
    - to ensure that any consideration of the exclusion clauses of the Convention are considered initially within the regular asylum procedure as opposed to a fast-track procedure;



10. Calls on the Commission and Member States to reaffirm the EU policy that individuals must not be extradited to countries in which they could face the death penalty for their crimes and not to accept unenforceable guarantees;
11. Calls on the commission to investigate as soon as possible the status of excludable non-removable persons and to propose common legislation harmonising the treatment of these individuals across the EU, and to distinguish, if necessary, between the different groups of people who can arrive at this status;
12. Calls on the Commission and Member States to ensure that any of the security measures developed do not generally lead to detention of asylum seekers arriving from particular countries or for those who have arrived in a certain manner: immediate and general detention should be avoided;
13. Calls on the Commission to ensure that biometric data collected on asylum seekers, including Eurodac data, is not used for criminal investigation purposes until legislation on privacy of biometric data has been developed;
14. Calls on the Commission and Member States to ensure that before excluding anyone from the asylum procedure there are serious reasons to believe that the individuals concerned had involvement in those acts under Article 1(F) of which they are accused;
15. Calls on the Commission and Member States to ensure that investigations into the withdrawal of refugee status are not undertaken on the basis of race, nationality, ethnicity, religious beliefs or any other factor other than serious reasons for considering that there has been involvement in activities covered by the exclusion clauses in the Geneva Convention;
16. Calls on the Commission to examine the conditions which should apply to the suspension of asylum claims in cases of extradition or of a European Arrest Warrant;
17. Calls on the Commission to liaise with the International Criminal Court as it works to produce a definition of 'crimes of aggression', at the same time taking account of international criminal jurisprudence, and to ensure EU law is compatible with a future definition;
18. Urges that the European Union give its support to the third countries concerned, particularly those involved in the Barcelona process regarding measures related to human rights and to prevent, limit or end human rights violations;
19. Instructs its President to forward this resolution to the Council, the Commission, and the Member States.

## **EXPLANATORY STATEMENT**

### **INTRODUCTION**

The Laeken Summit of December 2001 reiterated the need for the EU Member States to adopt a common asylum and common immigration policy by 2004, in line with the Conclusions adopted at Tampere in October 1999. The Commission subsequently adopted a communication on the progress towards a common asylum policy, which also proposed the introduction of the open co-ordination method in asylum to encourage convergence of national systems, as well as providing a transitional step toward the second phase of legislation. This is broadly welcomed, although it must be ensured that this method is not open to abuse from Member States, who must seek first and foremost to fulfil their obligations under the Geneva Convention and supporting international instruments.

Concerns about European security following the September 11 attacks led to an extraordinary JHA Council meeting on 20 September 2001. The Council called on the Commission to look into the relationship between internal security and international protection obligations as soon as possible which resulted in a Commission working document. Whilst measures to tighten security and protect EU citizens are welcome, the EU must ensure it avoids inadvertently curbing the very human rights and freedoms it seeks to protect.

This report combines the responses to both the above Commission proposals due to Parliamentary restraints. The Parliament looks forward to asylum and immigration issues being subject to the co-decision procedure so that Parliament can take a full part in the decision making process.

Finally, Member States must begin to relieve the asylum system themselves by offering a legitimate route to EU residency for those economic migrants who are able and willing to work. A rational immigration policy alongside an asylum policy is essential to relieve the pressure on the asylum system and enable Member States to fulfil their international humanitarian obligations.

### **OPEN CO-ORDINATION METHOD**

The first report by the Commission into the application of the common asylum policy has been communicated to Council and Parliament, as agreed in COM(2000) 755. Specifically, it proposes the introduction of the open co-ordination method in order to complement Community legislation in asylum and provide a transition to the second phase of legislation.

The open co-ordination method has been successfully employed in a number of areas of Community policy, most notably in employment. It recognises that Member States may need extra flanking measures in order to ensure convergence towards a common policy. It also serves as a way in which to compare the progress made by Member States in transposing EU practise into their national systems.

Parliament welcomes the comparison of statistics and sharing of best practice entailed in the open co-ordination method . Nevertheless the introduction of the method into asylum policy

must be done carefully, and should enforce and strengthen rather than replace legislative measures.

### **Adapting the open co-ordination method to asylum policy**

It is important to recognise that asylum policy is a politically sensitive and often volatile area. The open co-ordination method should therefore be specially adapted to suit asylum, as acknowledged by the Commission. However, the Commission does not expand on *how* the open co-ordination method will be adapted in order to take into account the political sensitivities of asylum policy. In asylum policy, Member States' systems are based on international humanitarian obligations, therefore 'best practice' necessarily means practice which fulfils the requirements of the Geneva Convention and Protocol, as interpreted in the UNHCR's *The exclusion clauses: guidelines on their application* as well as other supporting and complementary human rights instruments and jurisprudence.<sup>1</sup> The guidelines on asylum should therefore have this obligation at their core, and limit political abuse by Member State governments' of any political persuasion. Open co-ordination must avoid a common asylum policy reduced to the lowest common denominator of Member States' current policies, but should instead improve standards and provide a transition to the second stage of the asylum legislative agenda.

### **European guidelines on asylum**

The five guidelines proposed by the Commission cover the following areas:

- information on the movements of asylum seekers and refugees;
- the development of an efficient asylum system that offers protection to those who need it;
- returns;
- relations with third countries; and
- integration of refugees.

In order for the system as a whole to guarantee protection to those who need it, the Commission must prioritise guideline two. i.e. measures relating to the inclusive aspects of the Geneva Convention. However, in this field legislative measures are needed which guarantee the quality of the process and decision making across Member States, otherwise 'best practice' cannot be achieved.

### **The External Dimension**

All candidate countries must be included in the open co-ordination method as this may speed up the process of convergence between their own systems and the Community acquis in asylum.

Measures to better understand migratory flows and develop closer relations with countries of origin are to be welcomed. However, there should be a concerted effort from the Commission and Member States to integrate both asylum and immigration considerations into *all* policy areas as a horizontal policy objective.

### **Statistics and Information exchange**

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<sup>1</sup> Including the European Convention on Human Rights, Convention against Torture, UN Human Rights Committee jurisprudence, EU Charter of Fundamental Rights, the UNHCR Handbook on Procedures and Criteria for Determining Refugee Status and the UNHCR's *The exclusion clauses: guidelines on their application*

The provision of statistics and exchange of information must be framed by effective evaluation of the implementation of the common policy. The Parliament must be included in this process. The Commission and Member States are urged to upgrade their discussions with the European Parliament on these issues, and are called on to propose a formal role for the democratically elected institutions of the EU in the evaluation and monitoring of Member States' progress, and all aspects of a common asylum policy. The Parliament welcomes the Commission's commitment to providing the European Parliament with an annual report on progress, but asks that it takes note in its report of progress towards reaching the objectives set out by the Parliament.

## **INTERNAL SECURITY**

The Conclusions of the Extraordinary JHA Council of September 2001 in the wake of the September 11 attacks gave the mandate for this working document. The document reminds Member States that provisions already exist under the Geneva Convention to exclude those who may have been involved in crimes against humanity or crimes against the objectives of the UN, and has been presented as a way in which to ensure terrorists do not enter EU territory via the asylum procedure. Whilst welcoming the need to tighten EU security, it is crucial that measures introduced to deal with the threat to internal security are proportionate, effective and, above all, safeguard human rights. Such measures must only therefore be considered as a part of the war against terrorism and not the solution, especially as it seems unlikely that a terrorist would subject him or herself to the scrutiny of the asylum procedure.

### **Geneva Convention exclusion clauses**

The Commission's commitment to using only the Geneva Convention exclusion clauses (principally article 1 {f}) as a basis for rejecting individuals' claim for asylum is welcome, as is the Commission's statement that no automatic bars to the asylum procedure will be introduced. The exclusion clauses state that Member States must have 'serious reasons' for believing an individual has been involved in war crimes, crimes against humanity and crimes contrary to the objectives of the UN in order to be excluded from protection under the Geneva Convention. Although there is no definition of 'terrorist crimes', it seems that terrorism would be covered by the exclusion clauses. The Commission and Member States should take note of recommendations of the UNHCR Expert Roundtable on Exclusion held in Lisbon 3-4 May 2001, which urged that exclusion clauses "should be interpreted restrictively and with caution", which supports the interpretation described in the UNHCR handbook.

### **Membership of a terrorist group**

The 'serious reasons' for believing that someone has been involved in terrorist activities cannot be evidence that the individual has spoken in support of the *aims* of a group that has used violence to achieve those aims. Rather, the individual must be assessed on evidence of actual participation in terrorist acts.

### **Extradition to countries where the death penalty exists for the crime(s) concerned**

The Commission also states that the extradition of individuals from the EU to a country where they could face the death penalty may be possible would be subject to guarantees made by the

receiving state that it would not impose capital punishment. The Commission will examine the nature of possible guarantees, but it seems that any "guarantees" probably could not be legally enforced. Furthermore, this approach of the Commission seems inconsistent with the commitment within the EU to eliminating the use of the death penalty.

Recently EU Member States have signed protocol 13 to the ECHR which will abolish the death penalty in all circumstances including war. Although the case law of the European Court of Human Rights provides that Article 3 of the ECHR would not prevent extradition to a country where the death penalty exists, this may need to be reviewed in the light of the new protocol.

### **Excludable, non-removable persons and standard of proof**

Given that the standard of proof necessary to exclude someone from the asylum procedure is not as high as that needed to either to bring about a criminal trial or a conviction, there are cases in which individuals are excludable from the asylum system but unable to be tried as there is not enough evidence for a criminal trial or have been found innocent. In such situations, if the individual has been requested for extradition, protection against *refoulement* could mean that the individual is excludable from a Member States' asylum procedure but non-removable for trial for humanitarian reasons.

The Parliament therefore looks forward to proposals to examine the treatment of excludable, non-removable individuals for all the different situations which may lead to this status.

### **Withdrawal of refugee status**

The cancellation of refugee status must only be considered when new and clear evidence comes to light that individuals may be involved in terrorist activities. Files of established refugees must not be re-opened on the grounds of nationality, race, ethnicity or other such reasons.

### **Access to asylum procedure**

The Commission is to be applauded for guaranteeing access for all to the asylum procedure, and for ruling out automatic bars to the process. Nevertheless, the Commission also speaks of 'front-security checks' of all asylum claims for potential security risks. This should not imply that the examination of the exclusion clauses of the Geneva Convention would take place before the inclusion clauses as to whether the individual should be recognised as a refugee. The exclusion clauses should not be routinely considered for practical as well as humanitarian reasons.

### **Suspension of asylum claim**

It remains to be clarified by the Commission what will happen when a request is made for the extradition of a person who has made an asylum applications e.g. suspension of the asylum claim or in the future when a European Arrest Warrant is issued for such an individual.

### **Use of EURODAC and future use of biometric data**

The Eurodac system was set up as a database of asylum seekers' fingerprints, with a view to guarding against asylum seekers making multiple applications across the EU. This information

cannot be used for criminal investigation purposes under current data protection rules. The use of biometric data should not be considered until further investigation has taken place on the impact of gathering DNA and personal data of individuals for purposes of criminal investigations on civil liberties. The Parliament would welcome detailed studies into this by the Commission.

### **Future International Criminal Court**

The International Criminal Court (ICC) has now been ratified by more than 60 states (including the EU 15) , and will accordingly enter into force from July 2002 in line with the Rome Statute. The court, situated in the Hague, will have the power to try individuals who commit war crimes, crimes against humanity, genocide and, once defined, crimes of aggression. It is imperative that work continue with the full involvement of the EU on a coherent definition of 'crimes of aggression' in order that the ICC can be used to try individuals who are suspected of terrorist activities and thus bypass some of the problems that occur relating to the extradition of individuals. The Member States should also ensure that all necessary steps have been taken for the entry into force of the ICC in July.

## MINORITY OPINION

Tabled by Giuseppe Di Lello Finuoli, Alain Krivine, Lucio Manisco, Ilka Schröder and Fodé Sylla

on the Commission communication on the common asylum policy, introducing an open co-ordination method (First report by the Commission on the application of Communication COM(2000)755 final of 22 November 2000 (COM(2001)710 - C5-0107/02 - 2002/2053(COS))

We support the parts of the report on the common asylum policy and the open co-ordination method where it stresses

- full respect for the Geneva Refugee Convention,
- broad access to European asylum procedures,
- demands no routine consideration of the exclusion clauses in asylum claims,
- the needs of refugees for protection, and their legitimate right to flee from socially and politically miserable conditions.

We support open borders, effective access to asylum procedures within the EU territory for everybody, and equal rights for third country nationals as well as EU citizens.

We outrightly reject the spirit and the political content of the attached working document COM(2001)743 for various reasons:

The working document links "security-paranoia" with asylum and refugee questions and portrays foreigners and refugees as "threats" and thus fuels the xenophobic and racist cliché of "economically not useful people" as being dangerous.

Finally the working document suggests restrictive and repressive measures, ignoring the true threats to social and economic security, that urgently need to be stressed by opposite means.

26 June 2002

## **OPINION OF THE COMMITTEE ON PETITIONS**

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

on Asylum: common procedure and internal security  
(2002/2053 (COS))

Draftsman: Laura González Álvarez

### **PROCEDURE**

At its meeting of 21 March 2002, the Committee on Petitions appointed Laura González Álvarez draftsman.

The committee considered the draft opinion at its meeting of 19/20 June 2002.

At the latter meeting it adopted the following conclusions unanimously.

The following were present for the vote: Vitaliano Gemelli, chairman; Roy Perry, Proinsias de Rossa and Astrid Thors, vice-chairmen; Margot Keßler, Jean Lambert, Ioannis Marinos and Christian Ulrik von Boetticher.



## SHORT JUSTIFICATION

### Introductory observations

1. The Committee on Petitions, which has received several petitions concerning this matter, has already delivered an opinion on the Commission communication, 'Towards a common asylum procedure, valid throughout the Union, for persons granted asylum'<sup>1</sup>. Here it gives its views on the current Commission document concerning an open coordination method regarding the common asylum policy, reporting on the implementation of the previous communication.
2. Given the similarities between common asylum and immigration policy, it recommends that they be implemented side by side.<sup>2</sup> At the same time, as the Commission has indicated in various documents and legislative instruments, it must be remembered that asylum policy is inextricably linked with, and indeed forms an integral part of, a European area of freedom, security and justice which the Union wishes to achieve and with which it seeks to be identified. This means that respect for the basic rights of the individual embodied in the European Charter of Fundamental Rights (in the hope that they will be confirmed as an integral part of the future European Union Constitution) take precedence over any policies seeking to control migratory flows, since it is necessary to protect the victims of persecution seeking assistance from the Union and to implement properly any relevant international agreement.
3. In your rapporteur's opinion, feelings of insecurity within our society and in all the Member States have been overexploited and, for overtly electoral reasons, attention has accordingly been targeted on measures to clamp down on illegal immigration, sometimes affecting asylum-seeker intake. The Commission has noted a fall in the number of those accorded refugee status owing to:
  - (a) measures adopted by the Member States seeking to divert refugee flows to other destinations or deter certain refugee categories from applying for asylum
  - (b) the increasingly heterogeneous migration flows with economic migrants apparently intermingled with asylum-seekers
  - (c) a growing divergence between the needs of those concerned and the criteria laid down by the Geneva Convention.
4. While your draftsman is unable to adopt a position on every aspect of the Commission document, she nevertheless wishes to stress the importance she attaches to achieving the Community programme of action to combat discrimination, racism and xenophobia, all problems which must be taken into account in adopting an objective and dispassionate approach to asylum policy.

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<sup>1</sup> (cf. opinion by Sbarbati 303.263).

<sup>2</sup> For a general overview of the problem see the work by Toni Kusher and Katherine Knox '*Refugees in an age of genocide. Global, National and Local Perspectives during the Twentieth Century*': 1999 and the report published by the French Institute for International Relations: '*New citizenships: refugees and stateless persons within the European area*' – Ifri 2001.

5. The Committee on Petitions fully endorses the recommendations contained in the Commission communication to strengthen cooperation between the Union and third countries dealing with large refugee inflows (for example: Iran, Pakistan, etc...) and cooperation between the European Union and the United Nations High Commissioner for Refugees. It warmly supports the proposal to hold asylum discussions as part of the Barcelona process, given the growing number of refugees fleeing persecution from state organisations and other bodies within countries facing the European Union's southern maritime borders.
6. In particular, it stresses the need for an effective means of assessing progress in achieving common European objectives regarding migration and the right of asylum. In accordance with Tampere undertaking, the Union has adopted harmonisation measures regarding asylum and immigration, together with a legal instrument which is considerably more ambitious and effective than in the past. These must be used as part of the open coordination method for administration of the right of asylum at Community level. In this area, even more so than for immigration, a high level of convergence must be achieved as early as possible.
7. The Committee on Petitions therefore stands foursquare behind the Commission in its efforts to implement this method of coordination and draw up European guidelines to coordinate national action plans so as to bring them 'into line' with genuine Community policy. This means that the Council must adopt multiannual guidelines for the Union as a whole, accompanied by a timetable for the realisation of short, medium, and long-term objectives. Your rapporteur sometimes has the impression that the Council is seeking to align the European Union with restrictive national policies, as evidenced by the fact that the current presidency is devoting a European Council meeting (Seville) to the problem of immigration alone.

## **CONCLUSIONS**

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

- A. having regard to the importance for the European Union, as an area of freedom, security and justice, to establish a genuine common asylum policy granting refugee status to all those who deserve it in accordance with the Geneva Convention,
- B. recalling in this connection its obligations under the European Charter of Fundamental Rights concerning asylum policy,
  1. Considers that arrangements for the protection of refugees and asylum seekers must be given the same importance as policy designed to control migratory flows and combat the activities of organised criminals seeking to exploit would-be migrants and asylum-seekers;
  2. Calls for the introduction of effective measures at national level to ensure respect for the human dignity of incoming asylum seekers;

3. Stresses the importance of giving particular attention to the needs of unaccompanied minors and female applicants for refugee status;
4. Calls for the various procedures for granting refugee status to be accelerated;
5. Stresses the importance of adequate training for those concerned, i.e. diplomatic and consular staff, police and border officials and members of the various appeals bodies, enabling them to deal with problems specifically relating to the right of asylum;
6. Stresses the importance of the contributions which must be made by the community, those involved at local and regional level, the two sides of industry, the NGOs and asylum-seekers themselves in seeking to resolve this problem;
7. Accordingly, seeks improved cooperation with NGOs, the United Nations High Commissioner for Refugees and with host countries under the auspices of the Commission;
8. Attaches particular importance to improved awareness of policies followed concerning the return of refugees, including forceable return procedures applied by the Member States;
9. Urges finally that the European Union give its support to the third countries concerned, particularly those involved in the Barcelona process regarding measures related to human rights and to prevent, limit or end human rights violations.