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## REPORT

on the Communication from the Commission to the Council and the European Parliament entitled 'Towards more accessible, equitable and managed asylum systems'

(COM(2003) 315 - C5-0373/2003 - 2003/2155(INI))

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

Rapporteur: Luís Marinho

PR INI art47-2

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## PROCEDURAL PAGE

By letter of 3 June 2003 the Commission forwarded to Parliament its Communication entitled 'Towards more accessible, equitable and managed asylum systems' (COM (2000) 315), which was forwarded for information to the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs, to the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy and to the Committee on Development and Cooperation.

At the sitting of 4 September 2003 the President of Parliament announced that the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs had been authorised to draw up an own-initiative report on the above topic under Rule 47(2) and Rule 163 of the Rules of Procedure, and that the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy and the Committee on Development and Cooperation had been asked for their opinions.

The Committee on Citizens' Freedoms and Rights, Justice and Home Affairs appointed Luís Marinho rapporteur at its meeting of 9 September 2003.

It considered the draft report at its meetings of 2 December 2003, 22 January 2004 and 19 February 2004.

At the last meeting it adopted the motion for a resolution by 29 votes to 2 with 0 abstentions.

The following were present for the vote: Jorge Salvador Hernández Mollar (chairman), Robert J.E. Evans (vice-chairman), Johanna L.A. Boogerd-Quaak (vice-chairman), Giacomo Santini (vice-chairman), Luís Marinho (rapporteur), Mary Elizabeth Banotti, Kathalijne Maria Buitenweg (for Pierre Jonckheer), Michael Cashman, Carmen Cerdeira Morterero, Gérard M.J. Deprez, Koenraad Dillen, Adeline Hazan, Marie-Thérèse Hermange (for Charlotte Cederschiöld), Margot Keßler, Timothy Kirkhope, Eva Klamt, Lucio Manisco (for Ole Krarup), Marjo Matikainen-Kallström (for Thierry Cornillet), Erik Meijer (for Ilka Schröder, pursuant to Rule 153(2)), Elena Ornella Paciotti, Paolo Pastorelli (for Marcelino Oreja Arburúa), Hubert Pirker, Bernd Posselt, Olle Schmidt (for Baroness Ludford), Ole Sørensen (for Bill Newton Dunn), Patsy Sørensen, Sérgio Sousa Pinto, Joke Swiebel, Anna Terrón i Cusí, Maurizio Turco and Christian Ulrik von Boetticher.

The opinions of the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy and the Committee on Development and Cooperation are attached.

The report was tabled on 17 March 2004.

## DRAFT EUROPEAN PARLIAMENT RESOLUTION

**the Communication from the Commission to the Council and the European Parliament entitled ‘Towards more accessible, equitable and managed asylum systems’ (COM(2003) 315 – C5–0373/2003 – 2003/2155(INI))**

*The European Parliament,*

- having regard to the Communication of 3 June 2003 from the Commission to the Council and the European Parliament entitled ‘Towards more accessible, equitable and managed asylum systems’ (COM(2003) 315),
- having regard to the Communication of 26 March 2003 from the Commission to the Council and the European Parliament on the common asylum policy and the Agenda for Protection (COM(2003) 152),
- having regard to the Universal Declaration of Human Rights which was adopted by the UN General Assembly on 10 December 1948 and, in particular, Article 14 thereof,
- having regard to the European Convention on the Protection of Human Rights and Fundamental Freedoms which was signed in Rome on 4 November 1950,
- having regard to the EU Charter of Fundamental Rights which was formally proclaimed on 7 December 2000<sup>1</sup>, in particular Articles 1, 18 and 19 thereof,
- having regard to the draft Treaty establishing a Constitution for Europe, which was adopted by the European Convention on 13 June and 10 July 2003 and which was submitted to the President of the European Council in Rome on 18 July 2003, and in particular Articles II-1, II-18 and II-19 thereof,
- having regard to the 28 July 1951 Geneva Convention on the Status of Refugees, which was supplemented by the 31 January 1967 New York Protocol,
- having regard to the consolidated version<sup>2</sup> of the Treaty on European Union, in particular the fourth indent of Article 2 and Article 6 thereof,
- having regard to the consolidated version<sup>3</sup> of the Treaty on European Union, in particular Article 63 thereof,
- having regard to the Action Plan of the Council and the Commission on how best to implement the provisions of the Treaty of Amsterdam on an area of freedom, security and justice<sup>4</sup>, in particular paragraphs 8, 32, 33, 34, 36 and 37 thereof,
- having regard to the conclusions of the 15-16 October 1999 Tampere European Council,

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<sup>1</sup> OJ C 364, 18.12.2000.

<sup>2</sup> OJ C 325, 24.12.2002.

<sup>3</sup> OJ C 325, 24.12.2002.

<sup>4</sup> OJ C 19, 23.1.1999, p. 1.

in particular those contained in paragraphs 13, 14, 15, 16 and 17 thereof,

- having regard to the conclusions of the 14-15 December 2001 Laeken European Council, in particular those contained in paragraphs 38, 39, 40 and 41 thereof,
  - having regard to the conclusions of the 21-22 June 2002 Seville European Council, in particular those contained in paragraphs 28, 29, 37, 38 and 39 thereof,
  - having regard to the conclusions of the 19-20 June 2003 Thessaloniki European Council, in particular those contained in paragraphs 24, 25, 26 and 27 thereof,
  - having regard to the conclusions of the 16-17 October 2003 Brussels European Council, in particular those contained in paragraphs 30, 31, 32 and 33 thereof,
  - having regard to the Communication from the Commission to the Council and the European Parliament entitled ‘Towards a common asylum procedure and a uniform status, valid throughout the Union, for persons granted asylum’ (COM(2000) 755),
  - having regard to the Agenda for Protection which was adopted by the UNHCR’s Executive Committee and welcomed by the UN General Assembly during 2002, following the global consultations on international protection,
  - having regard to Rule 47(2) and Rule 163 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 Development and Cooperation (A5-0144/2004),
- A. whereas the European Union is based on the indivisible and universal values of human dignity, freedom, equality and solidarity,
- B. whereas the European Union is based on the principles of democracy and the rule of law and respect for human rights and fundamental freedoms, principles shared by all the Member States,
- C. whereas the EU Charter of Fundamental Rights reaffirms the rights recognised under constitutional tradition and the Member States’ joint international obligations for the purpose of ensuring that human dignity is fully upheld and that asylum seekers have the right of asylum, based on full, comprehensive application of the 1951 Geneva Convention on the Status of Refugees, as amended and supplemented by means of the 1967 New York Protocol,
- D. whereas a common asylum policy, including a common European asylum system, is one of the constituent elements of the European Union’s objective of establishing an open area of freedom, security and justice for those who, for overriding reasons of need, legitimately seek protection in the Community,
- E. whereas the European Council in Tampere drew up a plan regarding the timetable laid down in the Amsterdam Treaty and the Vienna Action Plan, with a view to creating a

European asylum system, which in the short term should include the clear and viable definition, by the State responsible for examining an asylum application, of common minimum standards for an efficient and just asylum procedure, minimum standards for the reception of asylum seekers and common minimum standards for the recognition and content of the status of refugee, which should be supplemented by minimum standards for additional forms of protection offering appropriate status to all persons requiring such protection,

- F. having regard to the conclusion of the Tampere European Council which states that a European asylum system would include in the short term ‘ a clear and workable determination of the State responsible for the examination of an asylum application, common standards for a fair and efficient asylum procedure, common minimum conditions of reception of asylum seekers, and the approximation of rules on the recognition and content of the refugee status. It should also be completed with measures on subsidiary forms of protection offering an appropriate status to any person in need of such protection’,
- G. whereas it was pointed out at the Tampere European Council meeting that asylum and migration are separate but closely related issues, and hence a common European Union policy should be developed consisting of the following: (a) collaboration with the countries of origin by means of a global approach tackling political, human rights and development problems in the countries and regions of origin and transit; (b) a common European asylum system; (c) guaranteed fair treatment for the nationals of third countries residing lawfully on the territory of the Union, by means of a more determined integration policy; (d) the need to manage migration flows more efficiently at every stage, tackle illegal immigration at source and combat those involved in human trafficking and the financial exploitation of migrants;
- H. whereas the Commission has drafted proposals and obtained the opinion of the European Parliament in all the areas of asylum policy referred to in the conclusions of the Tampere special summit, but whereas even after five years no Council decisions have been reached,
- I. whereas the Laeken European Council stated that a proper common asylum and immigration policy depended on the introduction, among other instruments, of measures for the integration of migration flow policy in the European Union's foreign policy and the development of a European system for exchanging information on asylum, immigration and the countries of origin,
- J. whereas the Seville European Council pointed out that the measures taken for the joint management of migration flows should strike a fair balance between, on the one hand, a policy of integration for lawfully resident immigrants and an asylum policy complying with international conventions, and, on the other hand, resolute action to combat illegal immigration and trafficking in human beings, and hence: (a) drew up a global plan to combat illegal immigration; (b) welcomed the adoption of the plan to manage the external borders of the Member States, pointing out the measures which should be adopted in order to launch gradually coordinated and integrated management of external borders; (c) considered that the fight against illegal immigration required more intensive efforts on the part of the European Union and hence that all appropriate instruments needed to be used

in the Union's external relations with third countries in order to promote the economic prosperity of the countries affected and thus reduce the cause of migratory movements; (d) urged the Council to adopt the current legislative proposals on the establishment of a common asylum and immigration policy;

- K. stressing that account should be taken of the fact that there are three different issues: asylum seekers, temporarily displaced persons and economic migrants,
- L. praising the work of the UNHCR's Executive Committee which, in autumn 2002, adopted the Agenda for Protection, which consists of two sections: the first is the Declaration of States Parties to the Geneva Convention and its Protocol, which was adopted at the ministerial meeting of the States Parties on 11 and 12 December 2001, to mark the 50th anniversary of the Convention; the second consists of the Programme of Action, which has six goals, each of them pursuing various aims;
- M. whereas, although the 1951 Convention and its Protocol of 1967 are the cornerstone of the system of international protection for refugees the Convention by itself is not enough, and hence the Agenda for Protection aims to ensure progress on the basis of the Convention, by adapting and reinforcing the system of international protection, guaranteeing greater solidarity and supplementing the management of asylum flows with more modern instruments or policies in response to the challenges currently encountered in any attempt to address the refugee problem satisfactorily on a worldwide basis, in the face of the problems involved in applying international protection provisions in situations where there are mixed migration flows and millions of people are obliged to live in exile in order to seek protection from persecution and danger,
- N. noting that various chapters of the Agenda for Protection call for new provisions to be drawn up and for new instruments to be devised in response to the challenges currently encountered in any attempt to address the refugee problem satisfactorily on a worldwide basis, and that the UN High Commissioner for Refugees, at the 53rd session of the Executive Committee, called for such instruments to be developed in the form of special multilateral agreements designed to supplement the 1951 Convention, and referred to as the 'Convention Plus', the purpose of which would be to improve the Geneva Convention, encourage solidarity and expand the management of migratory flows connected with asylum by means of supplementary instruments or policies, so as to contribute towards improved management of the flow of asylum seekers, in particular where the latter belong to the most vulnerable groups, such as women and children,
- O. noting the particular contribution made by the United Kingdom at the European Council meeting held on 20-21 March 2003 in Brussels (on which occasion that country submitted a document entitled 'New international approaches to asylum processing and protection'), and whereas by letter of 10 March 2003 the UK Prime Minister asked the EU Presidency to include better management of the asylum system as an item on the Council's agenda, which constituted the catalyst for an intense debate which is still ongoing and in which all those involved in the issue of asylum, both outside and inside the Union, may participate and make a contribution;
- P. whereas the European Council in Thessaloniki reminded the Council of the need to ensure that the still-outstanding proposals for directives on minimum standards concerning



asylum were adopted before the end of 2003, and called on the Commission to explore all parameters in order to ensure more orderly and managed entry into the EU of persons in need of international protection and to examine how the regions of origin may better guarantee the safety of these persons;

- Q. whereas the two Commission Communications (dated 26 March and 3 June 2003 respectively) dealt with in this report should be examined together since, even though they are prompted by different considerations, they are nonetheless both concerned with the premises and the basic objectives of a possible new approach to more accessible, equitable and managed asylum systems and they explore new paths which will complement the progressive approach established at Tampere in connection with the implementation of the Agenda for Protection, drawn up by the international community after two years of consultations at world level, as a response to the current crisis in the system caused by the abuse of asylum procedures, the increase in mixed flows consisting of both people legitimately in need of protection and immigrants who use asylum to gain access to the territory of the Union in their quest for an improvement in their economic situation, whilst the majority of refugees are still living in badly equipped camps in third countries,
1. Considers the Commission's Communication of 26 March 2003 to be most timely, since it is linked to implementation of the Agenda for Protection which has been drawn up by the international community and approved by the UNHCR's Executive Committee;
  2. Expresses its concern at the fact that progress in the adoption of the legislative programme for the first stage of the common European asylum system described in the Tampere European Council conclusions has been made only after some delay and at the cost of less effective harmonisation, and that the Council is still unable to adopt the proposals for directives on the status of refugees and on asylum procedures respectively;
  3. Deplores the Council's inability to respect the deadlines laid down by the European Council at Tampere, Laeken, Seville and Thessaloniki for the adoption of both the proposal for a directive on minimum standards for the qualification and status of persons as refugees or as persons who otherwise need international protection and the proposal for a Council directive on minimum standards for procedures in Member States for granting and withdrawing refugee status. Similarly, deplores the fact that the Council of Justice and Home Affairs Ministers meeting on 27 and 28 November 2003 failed to find political agreement on these two fundamental elements in the initial stage of harmonising a common asylum system based on minimum standards and decided to postpone its adoption until 2004;
  4. Following the conclusions of the Thessaloniki European Council, calls on the Commission to examine all parameters for ensuring more ordered and reasonable means of entering the EU for asylum seekers, and to examine means of increasing protection capacity in the regions of origin, jointly with the UN High Commission for Refugees (UNHCR);
  5. Welcomes the progress made in recent months at Community level on the subject of asylum, but expressly calls for unanimous agreement to be reached as soon as possible with regard to the two directives concerning, respectively, minimum procedural rules and

the definition of refugees and of persons enjoying subsidiary protection, with particular reference to activities focusing on NGOs with a view to bringing about efficient procedures on the ground; in this connection hopes that a new arrangement will be established to succeed the European Refugee Fund; calls in addition for Community solidarity to be supported by fostering partnership with local and regional authorities and with NGOs;

6. Notes that, in all the Member States, there is currently a crisis within the asylum system which is reflected in increasing disquiet amongst the general public, since asylum procedures are being abused on account of an increase in 'hybrid' migrant flows (frequently fed by 'people smugglers' operating across borders) which comprise both individuals who are in legitimate need of international protection and economic emigrants who make use of asylum channels and procedures in order to enter the Member States' territory in search of better living conditions, for which reason many applications for international protection are rejected as groundless;
7. Notes that, in all the Member States, there is currently a crisis within the asylum system, with the rate of recognition by the authorities standing at 3 to 5% of asylum applications, although 30 to 60% of final asylum procedures in the Member States end with recognition of the asylum application; points out in this connection that asylum procedures last four to five years – a long time for both the applicants and the authorities responsible;
8. Points out in this connection that there is no legal immigration policy in the EU Member States, so that many migrants use the asylum route and procedure as a way to seek better living conditions on the territory of the Member States; calls on the Member States in consequence to implement a migration policy geared to the labour market and to create the foundations of a common immigration policy in the Union;
9. Considers that account should be taken of other circumstances where asylum is necessary: women and girls threatened with genital mutilation, child soldiers, victims of new forms of slavery etc.;
10. Notes that there is currently a need to address migration and asylum issues more systematically in accordance with the undertakings entered into by the European Union;
11. Forwards the following recommendations to the Commission and the Council:
  - (a) an increase in aid to the regions of origin of the migratory flows to fund cooperation projects that will improve living conditions, bringing about a decrease in the number of migrants.
  - (b) the introduction of or increase in aid to safe regions bordering the countries of origin of genuine asylum seekers and the countries through which they travel. If the protection of asylum seekers were guaranteed in other places, the pressure at EU borders would be eased. However, in order to guarantee protection, support for the work of the UNHCR, Red Cross, etc. would be necessary, along with the monitoring of human rights in refugee camps. Calls, to this end, for the implementation of specific

programmes aimed at providing financial and technical aid contributing to ensuring protection in border and transit regions.

- (c) action to facilitate, by means of the necessary technical assistance, the integration of those present on EU territory who are entitled to the protection deriving from the right to asylum, with the participation of competent EU bodies, local and national authorities, trade unions, employers' associations, NGOs, and cultural, social and sporting organisations;
12. Considers that the lack of investment and development aid for the countries into which asylum seekers first seek entry and the low level of funding for the UNHCR have created serious obstacles to the establishment of protection regimes in Africa and Asia;
  13. Considers that the low levels of aid and investment for post-conflict situations have tended to favour the reappearance of conflicts in numerous countries, making it impossible for refugees to return home permanently and generating further refugee flows;
  14. Congratulates the Commission on its proposal for a European Parliament and Council Regulation establishing a programme of technical and financial assistance for third countries in the fields of asylum and immigration which, under budget heading B7-667, provides for a five-year (2004-2008) multiannual programme to which EUR 250 million has been allocated, in order to provide specific and additional responses to the needs encountered by the third countries of origin and transit in their efforts to guarantee better management of all the aspects and dimensions of migration flows, including those connected with international protection,
  15. Welcomes the presentation by the Commission of its 3 June 2003 Communication entitled 'Towards more accessible, equitable and managed asylum systems' which, on the one hand, should be understood as a response to paragraph 61 of the 20-21 March 2003 European Council conclusions (which called for exploration of the new approaches to international protection which had been proposed by the UK Prime Minister) but which, on the other hand, goes much further by establishing the Commission's position regarding the premises and the basic objectives of a new approach designed to remedy the problems which seriously affect current asylum systems;
  16. Believes that regional protection zones and transit centres outside the EU may not guarantee the same degree of protection. The credibility of and trust in an effective asylum system cannot be restored with the establishment of regional protection zones and transit processing centres if they undermine the key principles of the Geneva Convention, the European Convention on Human Rights and the key idea of responsibility-sharing;
  17. Endorses the spirit of the Agenda for Protection and the concepts of the 'Convention Plus' which have been drawn up under the aegis of the UNHCR, and urges the EU to consider and to commit itself decisively to a new approach to international protection based, on the one hand, on better management of access for persons requiring international protection within the territory of the Member States, and, on the other, on the firm establishment of suitable responses to refugees' protection requirements in their

regions of origin;

18. Welcomes the contents of the multilateral Agenda for Protection adopted by the UNHCR's Executive Committee in response to the current challenges involved in managing the problem of refugees worldwide, whilst noting that the European Union, which will have a leading role in the outcome of the long-term programme, should give priority to the following points in the programme:
  - (a) measures promoting a better system of access to protection;
  - (b) the quest for lasting solutions via a policy of return and/or integration in the host country and/or by means of resettlement provisions;
  - (c) a better distribution of tasks and responsibilities with regard to managing refugees, using the European foreign policy protection instruments;
19. Welcomes the fact that the European Convention made provision, in its draft treaty establishing a Constitution for Europe, for a common European asylum system (Article III-167) and a common immigration policy (Article III-168), which will make it possible to abandon the current system of minimum standards, in which the Member States still retain their national systems to a great extent, and replace it by a proper European asylum system with a common asylum procedure and uniform legal status, valid throughout the Union, for people who are granted asylum, and also allow the adoption of measures connected with the involvement of and cooperation with third countries in managing flows of people seeking asylum or subsidiary or temporary protection;
20. Believes that harmonising existing instruments and procedures relating to asylum and protection at European level, thereby eliminating disparities among the Member States, is the best means of combating illegal immigration and the networks that help to perpetuate it; believes that harmonisation should follow the best practice of Member States and should not be based on the lowest common denominator;
21. Notes that the Union must be able to employ expeditious procedures serving to distinguish between those asylum-seekers who genuinely need international protection and those who are economic migrants and that these procedures have to comply fully with international obligations; underlines that persons in need of international protection must have access to the territory of Member States, which should be compatible with checks at the Union's external borders;
22. Notes that the priority is to create propitious conditions in countries of origin, thereby removing the reasons to leave; calls, as regards support and related procedures, for a structured and well-organised reception system to be set up;
23. Calls upon the EU to respond to the crisis within the existing asylum system in all the Member States and, without delay, to explore new channels in this area which will complement the approach laid down at Tampere with a view to pursuing - in the context of an enlarged Europe - the following additional objectives:

- (a) better decision-making;
  - (b) rationalisation of the procedures for examining asylum applications,
  - (c) better protection in the region of origin;
  - (d) consideration of applications for protection on the basis of needs, once access to the EU has been regulated through the introduction of a system of protected entries and resettlement programmes;
  - (e) consideration of applications for protection on the basis of needs, stressing that a system of protected areas and resettlement programmes would complement and not replace access to the EU for individual consideration of asylum applications;
24. Believes that a new approach towards more accessible, equitable and managed asylum systems should start, as a prerequisite, with harmonisation of the EU Member States' existing asylum systems and develop in such a way as to encompass both the phenomenon of hybrid migrant flows (consisting of persons requiring international protection and economic emigrants) and the external dimension of those flows;
25. Considers that a future new approach should not affect the legislative harmonisation currently under way in the asylum sphere, since asylum seekers will in future continue to arrive spontaneously in the Member States and their applications must remain subject to common rules;
26. Endorses the view that harmonisation should not aim at the lowest common denominator but should be founded on Members States' best practice and on international legal obligations;
27. Calls on the EU to ensure that the new approaches in the field of asylum systems start from the following basic premises:
- (a) the Member States must fully honour their international legal obligations, such as the 1951 Geneva Convention on the Status of Refugees and the European Convention on the Protection of Human Rights and Fundamental Freedoms,
  - (b) the underlying causes of forced migration must be tackled,
  - (c) addressing first the fundamental causes of migration by encouraging a better understanding of migratory patterns and establishing a genuine preventative policy,
  - (d) an assessment should be made of the economic and demographic trends in the Union, the situation in the countries of origin and the reception capacity of each Member State;
  - (e) legal entry into the European Union by third-country nationals for the purposes of employment or family reunification must be facilitated and must necessarily be combined with the existence of minimum reception conditions and an integration policy,
  - (f) illegal immigration must be combated in strict compliance with international humanitarian obligations, and no collective expulsions are to be allowed, but a fair and case-by-case evaluation of asylum applications is to be applied. Organised networks of criminal gangs and individuals engaged in the trafficking of human beings should be punished instead of victims of trafficking,
  - (g) there should be joint management of migration flows, particularly of visa policy and, in parallel, more stringent controls at external borders;

- (h) the burden of taking in refugees must be shared both within the European Union and with third countries on the basis of a partnership involving the countries of origin, transit, initial refuge and destination,
  - (i) efficient management of the distribution of financial aid to refugees,
  - (j) there must be better protection in the regions of origin and requests for protection must be considered in the light of needs, once access to the EU has been regulated through the introduction of protected-entry systems and resettlement programmes,
  - (k) the new approach must complement (rather than replace) the common European asylum system laid down at Tempere and must be incorporated into the future development of that system,
  - (l) discussions over new approaches may not be used to justify any delays in the adoption by the Council of proposals for Directives which have yet to be finalised in the initial stage of the common European asylum system,
  - (m) both the EU's and the Member States' new initiatives should be compatible with the global initiatives laid down in the UNHCR's Agenda for Protection and Convention Plus,
  - (n) the possible budgetary impact of the new approaches should not result in any infringement of the EU's financial perspective;
28. Takes the view that in the light of the shortcomings of the current asylum systems it is essential to examine new ways and develop a new approach to supplement these asylum systems and to be applied in the context of a real sharing of burdens and responsibilities, the overall objective of which would be to guarantee better management of asylum flows in the territory of Europe and in the regions of origin, in order to arrive at better managed and more accessible and just asylum systems;
29. Urges the EU to take into account (with a view to swift implementation) the fact that a new approach designed to complement existing asylum systems must be based on (and must pursue as its prime policy objective) the orderly, controlled arrival of persons in need of international protection into the EU from their region of origin by means of:
- (a) a Community-wide resettlement scheme involving the transfer of refugees from an initial EU country of admission, for which purpose a legislative instrument for creating such a scheme should be devised and a specific chapter should be included in the new financial instrument which replaces the European Refugee Fund (which will cease to exist in 2004);
  - (b) the establishment of protected-entry procedures under which a foreigner would be able to submit an application for asylum (or for some other form of international protection) to a potential host country (although from outside the latter's territory) and secure an entry permit if his application is accepted, for which purpose a legislative instrument regulating such matters should be adopted;
30. Also urges the EU to take into account the fact that, in the implementation of the new approaches to asylum, the second policy objective which should be pursued alongside the first is that of the financial, technical and physical sharing of the responsibilities within the EU and with the regions of origin, since the latter are currently under great pressure from refugee flows and the problems stemming therefrom;

31. Deplores the practice of placing asylum-seekers in detention centres, in particular vulnerable groups such as women and children, and encourages the use of other available options such as reporting requirements and non-custodial methods;
32. Likewise urges the EU to ensure, as part of a new approach to asylum systems, that the third policy objective upon which that approach should be based (alongside the first two) is the development of an integrated approach involving efficient procedures for the adoption of asylum-related decisions through the restructuring of asylum procedures in the EU Member States for the purpose of rapidly filtering persons from countries of initial refuge which offer effective protection and with a view to establishing close cooperation between the EU, the countries of origin and the countries of initial refuge as regards issues relating to the return of asylum seekers;
33. Calls on the Commission, should an EU regional operative group be set up with responsibility for the dissemination of information, handling of dossiers and reinstallation and protected entry procedures, to ensure that such a task force includes the participation of NGOs with a specialist knowledge and activity in the field of migration and asylum, both in the countries of origin and in the EU;
34. Instructs its President to forward this resolution to the Council and the Commission.

## **EXPLANATORY STATEMENT**

Since the content of this report has no financial implications and since each of the paragraphs which make up the draft resolution has been amply justified in the recitals, no explanatory statement (which would merely be superfluous and repetitive) is given.



18 February 2004

## **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  
entitled 'Towards more accessible, equitable and managed asylum systems'  
(COM(2003) 315 – C5–0373/2003 – 2003/2155(INI))

Draftsman: Mario Mauro

### **PROCEDURE**

The Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy appointed Mario Mauro draftsman at its meeting of 8 July 2003.

It considered the draft opinion at its meetings of 21 January 2004 and 18 February 2004.

At the latter meeting it adopted the following suggestions by 20 votes to 3, with no abstentions.

The following were present for the vote: Elmar Brok (chairman), Baroness Nicholson of Winterbourne (vice-chairwoman), Geoffrey Van Orden (vice-chairman), Christos Zacharakis (vice-chairman) Ole Andreasen, Bastiaan Belder, John Walls Cushnahan, Véronique De Keyser, Per Gahrton, Ulpu Iivari (for Richard Howitt), Catherine Lalumière, Cecilia Malmström, Pasqualina Napoletano, Arie M. Oostlander, Jannis Sakellariou, José Ignacio Salafranca Sánchez-Neyra, Ursula Schleicher (for Alfred Gomolka pursuant to Rule 153(2), Ioannis Souladakis, Ilkka Suominen, Joan Vallvé, Paavo Väyrynen, Demetrio Volcic, Karl von Wogau.

## SUGGESTIONS

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 suggestions in its motion for a resolution:

1. Considers that migration issues should be fully incorporated into the Union's external relations as a priority, particularly in the context of the political and economic partnerships that the Union has entered into with non-member countries; notes that asylum policies and migration management policies are closely intertwined;
2. Welcomes the progress made in recent months at Community level on the subject of asylum, but expressly calls for unanimous agreement to be reached as soon as possible with regard to the two directives concerning, respectively, minimum procedural rules and the definition of refugees and of persons enjoying subsidiary protection, with particular reference to activities focusing on NGOs with a view to bringing about efficient procedures on the ground; in this connection hopes that a new arrangement will be established to succeed the European Refugee Fund; calls in addition for Community solidarity to be supported by fostering partnership with local and regional authorities and with NGOs;
3. Considers it essential to implement the Agenda for Protection and the Convention Plus proposed by the UN High Commissioner for Refugees in order to set in train the requisite conditions for a more accessible, equitable, and better managed system of international protection, support and guidance, and resettlement;
4. Believes that harmonising existing instruments and procedures relating to asylum and protection at European level, thereby eliminating disparities among the Member States, is the best means of combating illegal immigration and the networks that help to perpetuate it; believes that harmonisation should follow the best practice of Member States and should not be based on the lowest common denominator;
5. Notes that the Union must be able to employ expeditious procedures serving to distinguish between those asylum-seekers who genuinely need international protection and those who are economic migrants and that these procedures have to comply fully with international obligations; underlines that persons in need of international protection must have access to the territory of Member States, which should be compatible with checks at the Union's external borders;
6. Notes, moreover, that effective migration management depends on constructive cooperation with non-Union countries of origin and transit, in addition to cooperation with the new neighbours of the enlarged Europe; calls, accordingly, for the introduction of the arrangement advocated by the Thessaloniki European Council in connection with the regulation establishing a new programme of financial and technical assistance to non-member countries in the area of migration and asylum;
7. Notes that the priority is to create propitious conditions in countries of origin, thereby removing the reasons to leave; calls, as regards support and related procedures, for a structured and well-organised reception system to be set up; calls, therefore, for NGOs to

be involved not just in reception and first aid, but in guidance to refugees, their safe return, their reintegration into local populations, and in drawing up innovative projects for their resettlement, under the common asylum policy and the Agenda for Protection;

8. Points to the need to share the burden of responsibility primarily among Members of the Union and with non-member countries as regards migration management and the treatment of refugees , as advocated in the resolutions adopted to date by Parliament, especially in connection with the Euro Mediterranean Partnership.

10 February 2004

## **OPINION OF THE COMMITTEE ON DEVELOPMENT AND COOPERATION**

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 more accessible, equitable and managed asylum systems (COM(2003) 315 – C5-0373/2003 - 2003/2155(INI))

Draftswoman: Francisca Sauquillo Pérez del Arco

### **PROCEDURE**

The Committee on Development and Cooperation appointed Francisca Sauquillo Pérez del Arco draftswoman at its meeting of 1 October 2003.

It considered the draft opinion at its meetings of 20 January and 9 February 2004.

At the latter meeting it adopted the following suggestions unanimously.

The following were present for the vote: Margrietus J. van den Berg (acting chairman), Marieke Sanders-ten Holte (vice-chairwoman), Francisca Sauquillo Pérez del Arco (draftswoman), Yasmine Boudjenah, Fernando Fernández Martín, Concepció Ferrer (for Nirj Deva), Colette Flesch, Michael Gahler (for Karsten Knolle), Karin Junker, Mario Mantovani (for Luigi Cesaro), Maria Martens (for Vitaliano Gemelli), Sérgio Ribeiro (for Luisa Morgantini), Ulla Margrethe Sandbæk, Michel-Ange Scarbonchi (for Hans Modrow), Elena Valenciano Martínez-Orozco (for Marie-Arlette Carlotti) and Anne E.M. Van Lancker (for Glenys Kinnock).

## SUGGESTIONS

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

1. The EU and the Member States are legally obliged under international, Community and national law to respect the right to asylum of anyone who has reason to fear persecution.
2. Expresses concern at the threat to an effective asylum system by its abuse by a growing number of economic migrants, as acknowledged by the Commission in its *Communication on the common asylum policy and the Agenda for protection*.
3. Believes that the right to asylum should be upheld in its entirety; insists more specifically that serious violations of the right to asylum be prevented, including the following:
  - lack of facilities necessary for lodging an asylum claim (including interpreters and adequately trained immigration officers);
  - insufficient consideration of an asylum claim;
  - expulsion of individuals to a country where they could be subject to torture or inhumane or degrading treatment or punishment.
4. Following the conclusions of the Thessaloniki European Council, calls on the Commission to examine all parameters for ensuring more ordered and reasonable means of entering the EU for asylum seekers, and to examine means of increasing protection capacity in the regions of origin, jointly with the UN High Commission for Refugees (UNHCR).
5. Considers that, in order to prevent violations of the right to asylum across Europe, some common standards for granting the status of asylum seeker must be established that, at the very least, comply with the provisions of international instruments on the right to asylum and, as Community added value, should take into account other circumstances where asylum is necessary: women and girls threatened with genital mutilation, child soldiers, victims of new forms of slavery etc.
6. Notes that there is a close link between underdevelopment, the problem of large flows of economic migrants and, consequently, an increase in false asylum claims. Development policy is therefore an important part of the overall solution to these problems.
7. Wishes the following recommendations to be forwarded to the Commission and the Council:
  - (a) an increase in aid to the regions of origin of the migratory flows to fund cooperation projects that will improve living conditions, bringing about a decrease in the number of migrants.
  - (b) the introduction of or increase in aid to safe regions bordering the countries of origin

of genuine asylum seekers and the countries through which they travel. If the protection of asylum seekers were guaranteed in other places, the pressure at EU borders would be eased. However, in order to guarantee protection, support for the work of the UNHCR, Red Cross, etc would be necessary, along with the monitoring of human rights in refugee camps. Calls, to this end, for the implementation of specific programmes aimed at providing financial and technical aid contributing to ensuring protection in border and transit regions.

(c) action to facilitate, by means of the necessary technical assistance, the integration of those present on EU territory who are entitled to the protection deriving from the right to asylum, with the participation of competent EU bodies, local and national authorities, trade unions, employers' associations, NGOs, and cultural, social and sporting organisations.

8. Stresses that asylum seekers and refugees should not, under any circumstances, be forced to return to their countries without any guarantee of their safety. One way of forcing their return is to deprive asylum seekers of their rights or the basic means of survival. Common European standards should therefore be established in terms of reception, the processing of claims and benefits received by asylum seekers. In cases where there can be no guarantee of safety in the country of origin, the return of asylum seekers and refugees should be voluntary or should take place following a fair and satisfactory consideration of the claim.
9. Considers that, even if there do exist in Europe hybrid types of migration in which asylum is requested by economic migrants who do not require international protection, the great majority of asylum seekers are from countries in which human rights violations occur; calls on the Commission and the Member States, accordingly, not to operate restrictive interpretations of the Convention on Refugees based on the possibility of abusive recourse to asylum.
10. Recalls that the efforts and funding invested by the Community and the governments of EU Member States should primarily be used to help the countries of origin establish an institutional framework that respects human rights, rather than to prevent refugees or asylum seekers entering a country or to expel them.
11. Considers that the lack of investment and development aid for the countries into which asylum seekers first seek entry and the low level of funding for the UNHCR have created serious obstacles to the establishment of protection regimes in Africa and Asia.
12. Considers that the low levels of aid and investment for post-conflict situations have tended to favour the reappearance of conflicts in numerous countries, making it impossible for refugees to return home permanently and generating further refugee flows.
13. Calls on the Commission, should an EU regional operative group be set up with responsibility for the dissemination of information, handling of dossiers and reinstallation and protected entry procedures, to ensure that such a task force includes the participation of NGOs with a specialist knowledge and activity in the field of migration and asylum, both in the countries of origin and in the EU.