Asylum: international protection regimes

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PURPOSE : to set out the views of the Commission on the basic premises of and objectives for a possible new approach towards more managed asylum systems. CONTENT : this report comes about as a response to the paper presented by the UK to the Spring European Council of 2003. The UK paper identified four factors which all substantially undermine the credibility, integrity, efficiency of and public support for the asylum system, not only in the EU, but also globally: - financial support for refugees is badly distributed; - current asylum system requires those fleeing persecution to enter the EU illegally, using smugglers whereas the majority of refugees, including probably the most vulnerable one, stay in poorly resourced refugee camps in third countries; - the majority of asylum seekers in EU does not meet the criteria for refugee or subsidiary protection status; - those found not to be in need of international protection are not returned to their country of origin. The paper proposes the setting up set up regional protection areas in regions of origin aiming to provide accessible protection, with greater support from the global community in finding durable solutions. Asylum seekers from certain countries could be returned to their home regions where "effective protection" could be offered to them, and where they would be processed with a view to managed resettlement in their home regions or, for some, access to resettlement schemes in Europe. Significantly greater processing of asylum applications in regions, attached to resettlement programmes, would need to be developed according to the Paper, in a way which avoided creating a 'pull factor' or attracting people to camps as an easy way to get to Europe. It might also be possible, in this concept, to return to the so-called "regional protection areas" failed asylum seekers who have reached Europe but have been found not to have a well-founded claim to refugee status, but who cannot be immediately returned to their country of origin. The aim would be to provide temporary support until conditions allowed for voluntary returns. The UK also suggests medium term action to deter those who enter the EU illegally and make unfounded asylum applications. One possibility, the Paper states, might be to establish protected zones in third countries, to which those arriving in EU Member States, and claiming asylum could be transferred to have their claims processed. These 'transit processing centres' might be on transit routes into the EU. Those given refugee status could then be resettled in participating Member States. Others would be returned to their country of origin. Discussions on the highlighted a substantial number of pertinent legal, financial and practical questions, which are discussed in detail by the Commission. The Commission goes on to set out UNHCR's views, which centre on a special EU-based mechanism, to be piloted in respect of designated countries of origin. The mechanism involves elements such as closed reception facilities, rapid determination of claims, rapid transfer to asylum state and the return of persons not needing international protection. The Commission also sets out the views of NGOs, particular Amnesty International and ECRE. Amnesty feared that suchproposals may effectively result in denying access to the EU territory and shifting asylum seekers to processing zones where responsibility, enforceability and accountability for refugee protection would be diminished, weak and unclear. In addition, there would be two classes of asylum states: the rich and powerful states that can select whom they will accept as refugees and the rest who are compelled to host large numbers, including people returned from the rich countries. ECRE notes that Jordan, Syria, Turkey and Kenya, the subject of a study currently do not have the legal and social-economic infrastructure to ensure the safety of large numbers of asylum seekers, and that the insecurity of their legal status places them in dangerous situations. The Commission goes on to set out the essentials of any new approach to the international protection regime, and the policy objectives to be achieved. These are: - managed arrival in the EU; - burden and responsibility sharing within the EU as well as with regions of origin and - efficient and enforceable asylum decision- making and return procedures, as discussed in this paper. The Commission suggests that the strategic use and the introduction of Protected Entry Procedures and Resettlement Schemes should be considered. The notion of Protected Entry Procedures is understood to allow a non-national to approach the potential host state outside its territory with a claim for asylum or other form of international protection, and to be granted an entry permit in case of a positive response to that claim, be it preliminary or final. A Commission study identified five blueprints which Member States could consider

when developing Protected Entry Procedures in the future, varying from the flexible use of the Visa Regime, to the development of a Schengen Asylum Visa. A resettlement scheme is understood to consist of transferring refugees from a first host country to a second, generally a developed country, where they enjoy guarantees of protection, including legal residence, and prospects for integration and autonomy. The resettlement process is approached in an integral manner, from policy formulation through the process of selection to transfer, arrival, and settling and longer-term perspectives. In such a framework, several levels of EU harmonisation can be identified, as well as levels of discretion left to Member States in that regard. The Commission feels that any new approach to the international protection regime should first and foremost not result in shifting, but in genuinely sharing the asylum burden. The Commission therefore suggests that further reflection be given to substantially assisting the regions of origin through various means in order to enhance their protection capacity, and to enable them to better cope with the great burden placed on them currently. Finally, the Commission recommends that the experience gained and the lessons learnt from past projects and current initiatives such as the Afghan Return Plan are used in informing and devising follow-up strategies. In conclusion the Commission seeks: - a legislative instrument on an EU resettlement scheme, including on the financial underpinning of such a scheme; - a legislative instrument on Protected Entry Procedures; - a legal basis building upon the preparatory actions financed out of Budget line (B7-667) 'Co-operation with Third Countries in the area of migration', which would specifically, and complementary to other existing programmes, support new approaches to asylum systems in third countries.