Asylum: common procedure, uniform status valid throughout the Union

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The Council has adopted in April 2004 the Council Directive on minimum standards for the qualification and status of third country nationals and stateless persons as refugees or as persons who otherwise need international protection (the Qualification Directive) and reached political agreement on

the Amended proposal for a Council Directive on minimum standards on procedures in Member States for granting and withdrawing refugee status (the Asylum Procedures Directive). Following consultation of the European Parliament, the first phase of the Common European Asylum System will be complete.

The Thessaloniki European Council of June 2003 called for further reinforcement of asylum procedures in order to make them more efficient with a view to accelerating as much as possible the processing of

non international protection related applications. This calls for a response on how the EU can build such reinforcement and acceleration into the procedures which lead to the two forms of international protection defined in the Qualification Directive. The Commission sets out in this paper the reasons

why it feels that taking steps towards a single procedure would answer those demands.

The reasons for a single procedure are as follows:

- speed and efficiency : Member States who operate a single procedure point out these effects of its introduction. A procedure which focuses on assessment of the protection needs defined in the Qualification Directive and where a single authority makes a decision on the basis of either of those two sets of criteria clearly has the potential to be quicker than the scenario of consecutive applications to one or more authorities where similar facts are assessed and appeals against the decisions of different authorities run in parallel. The centralisation of resources for dealing with applications for protection can also deliver clear benefits.

- protection : the minimisation of possible trauma and the transparent nature of one inclusive procedure are also encouragements to the applicant to present his or her case in a comprehensive manner covering all aspects which make it impossible for him or her to return to the country of origin. This avoids the possibility of significant facts being revealed after the main asylum procedure has been completed when the guarantees applicable to the asylum process no longer apply.

- public perception : Where one decision on protection follows a quick, comprehensive procedure (followed by the possibility of an appeal against that decision), ambiguity and the damaging perception that there are myriad possibilities to stay in a country for protection reasons can be dispelled.

- returns : Where all possible protection obligations are included in one procedure, the chance of further protection-related obstacles being raised to delay or prevent removal is all but removed. The Commission goes on to discuss why action is required at EU level.

In order to initiate this change and provide the technical assistance to prepare Member States for the possibility of legal and infrastructural adjustments the Commission recommends two approaches:

- Preparatory Phase : a period of consultation and preparation on what Member States need to do to unify the procedures which lead to the two types of status set out in the Qualification Directive. This will be initiated by the Commission in a series of operational actions and technical projects including Commission-chaired experts meetings which look at how the practices applicable to refugee status determination could be extended to the assessment of whether an applicant qualifies for subsidiary protection and how the whole procedure could further be made more efficient and speedy.

The Preparatory Phase would prepare the ground and establish broad consensus for bringing forward:

- Community legislation : first step legislative action to extend the guarantees agreed as applicable to

claims for refugee status in the Asylum Procedures Directive to those for subsidiary protection status in the Qualification Directive. Consideration would need to be given to how the Asylum Procedures Directive might need to be amended to take into account the particularities of the assessment of claims

for subsidiary protection. Also whether the Reception Conditions would need to be amended and if the Dublin II Regulation might be extended to cover applications for subsidiary protection.

The paper discusses the key questions on the legislative approach, the timescale of the legislation and

the scope of the single procedure. On the latter point, the Commission states that as a first step, at least Chapter II of the Asylum Procedures Directive, which deals with access to the procedure, the right to remain in the Member State pending examination, examination requirements, interviews, rules on legal assistance and procedures for withdrawal) must be made equally applicable to applications for subsidiary protection. The standards are essential for fair procedures and will constitute the foundation of all common procedures under future Community law.

The paper goes on to discuss how appeals should be handled in a single procedure, safeguarding the integrity of the Geneva Convention and maintaining the quality of decisions.

The Commission asks the Council and the European Parliament to endorse the two step approach set out in this Communication as the next step along the road to achieving the common asylum procedure leading to a uniform status valid throughout the Union for those granted asylum in view of the progress made so far on the Tampere agenda.