

Asylum: refugee status for third-country nationals and stateless persons, minimum standards

2001/0207(CNS) - 29/04/2004 - Final act

PURPOSE : to provide a framework for an international protection regime based on minimum standards for qualification as refugees and those in need of subsidiary protection

LEGISLATIVE ACT : Council Directive 2004/83/EC on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted.

CONTENT : This Directive comes about as the result of the Tampere conclusions, which provided that a Common European Asylum System must include the approximation of rules on the recognition of refugees and the content of refugee status. The Tampere conclusions also provided that rules regarding refugee status should be complemented by measures on subsidiary forms of protection, offering an appropriate status to any person in need of such protection.

This Directive ensures that Member States apply common criteria for the identification of persons genuinely in need of international protection, and that a minimum level of benefits is available for these persons in all Member States. The main points are as follows:

- minimum standards for the definition and content of refugee status are laid down to guide the competent national bodies of Member States in the application of the Geneva Convention;
- the Directive introduces common concepts of protection needs arising *sur place*; sources of harm and protection; internal protection; and persecution, including the reasons for persecution;
- when assessing applications from minors for international protection, Member States must have regard to child-specific forms of persecution;
- the best interests of the child will be a primary consideration of Member States when implementing the Directive.
- the Directive introduces a common concept of the persecution ground "membership of a particular social group" ;
- minimum standards for the definition and content of subsidiary protection status are laid down. The directive defines criteria on the basis of which applicants for international protection are to be recognised as eligible for subsidiary protection;
- risks to which a population of a country or a section of the population is generally exposed do normally not create in themselves an individual threat which would qualify as serious harm;
- within the limits set out by international obligations, Member States may lay down that the granting of benefits with regard to access to employment, social welfare, health care and access to integration facilities requires the prior issue of a residence permit;

- with regard to social assistance and health care, the modalities and detail of the provision of core benefits to beneficiaries of subsidiary protection status should be determined by national law. The possibility of limiting the benefits for beneficiaries of subsidiary protection status to core benefits is to be understood in the sense that this notion covers at least minimum income support, assistance in case of illness, pregnancy and parental assistance, in so far as they are granted to nationals according to the legislation of the Member State concerned;

- access to health care, including both physical and mental health care, must be ensured to beneficiaries of refugee or subsidiary protection status.

Lastly, it should be noted that Ireland will take part in the adoption of the Directive.

DATE OF TRANSPOSITION : 10/10/2006.

ENTRY INTO FORCE : 20/10/2004.