

Asylum: granting and withdrawing refugee status, minimum standards on procedures, Common European Asylum System

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The committee adopted the report by Wolfgang KREISSL-DÖRFLER (PES, DE), who had now taken over as rapporteur. In 2001, during the previous parliamentary term, the committee chairman, Graham WATSON (ALDE, UK), had submitted the first report to plenary in his name after the original rapporteur, Ingo SCHMITT, decided to withdraw his name from the report (see summary dated 28/08/2001). The report by Mr KREISSL-DÖRFLER tabled over 100 amendments to the proposal on which Parliament was being reconsulted:

- a new **Article 1a** expressly stipulated that the Directive "respects all the existing international obligations of Member States" as well as the EU Charter of Fundamental Rights, especially Article 18 (the right to asylum), "as general principles of Community law";
- a new clause in **Article 3** stated that, in applying the directive, Member States must take account of the principle of non-discrimination as laid down in Article 13 of the Treaty and in international conventions on human rights and refugee protection;
- the committee introduced a new **Article 4a** to ensure that the *non-refoulement* principle was explicitly mentioned under Chapter II "Basic principles and guarantees";
- certain exemptions in **Article 10** on the right to a personal interview were deleted. MEPs stressed that interviews were necessary to allow applicants and, in some cases, their dependents, to provide all relevant information. Only very limited exceptions should therefore be allowed;
- the provisions for children in the directive should be strengthened. The committee accordingly deleted certain clauses (e.g. in **Article 15**) which would have resulted in different treatment for a child applicant "who is married or has been married" or for an unaccompanied minor aged 16 or older. MEPs pointed out that marriage is lawful at a very young age in some countries. Moreover, according to the UN Convention on the Rights of the Child, any person aged under 18 should be considered to be a child and should be protected accordingly;
- the committee deleted the clause in **Article 20** allowing Member States to impose a time-limit after which the applicant's case can no longer be reopened. MEPs said that time-limits were incompatible with the *non-refoulement* principle;
- cases of "inadmissible applications" should be evaluated by a Member State only in accordance with the Geneva Convention (**Article 25**);
- on the "safe third country concept" (**Article 27**), the committee added a new clause allowing for asylum applicants to rebut the presumption of safety, arguing that any assessment of the risk should always be conducted on an individual basis, rather than on a general presumption concerning the country in question ;
- a common list at EU level should be the only list of safe countries allowed. Moreover, the list, to be established by a further legislative act, should be agreed - and where necessary revised - under the codecision procedure (**Article 30**);

- the committee deleted **Article 30A**, which would have enabled Member States to keep or to create national lists of safe countries;
- applications for asylum submitted at borders should be subject to the same minimum procedural safeguards as those submitted within the territory (**Article 35**);
- the committee deleted **Article 35A** allowing a Member State to deny access to the asylum procedure completely if an asylum applicant is seeking to enter or has entered illegally into its territory from a "safe third country";
- potential refugees must have the right to appeal if refused, and must always be allowed to stay in the Member State until the appeal procedure ends (**Article 38**);
- the committee amended the directive in several places to ensure that applicants would receive full information about the procedure, including the decisions reached, in a language they understand.