

Asylum: reception of applicants, minimum standards

2001/0091(CNS) - 27/01/2003 - Final act

PURPOSE : to lay down the minimum standards for the reception of asylum seekers in Member States.

COMMUNITY MEASURE : Council Directive 2003/9/EC laying down minimum standards for the reception of asylum seekers.

CONTENT : this Directive shall apply to all third country nationals and stateless persons who make an application for asylum at the border or in the territory of a Member State as long as they are allowed to remain on the territory as asylum seekers, as well as to family members, if they are covered by such application for asylum according to the national law. This Directive shall not apply in cases of requests for diplomatic or territorial asylum submitted to representations of Member States. It shall not apply when the provisions of Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof are applied. Member States may decide to apply this Directive in connection with procedures for deciding on applications for kinds of protection other than that emanating from the Geneva Convention for third-country nationals or stateless persons who are found not to be refugees.

RECEPTION CONDITIONS : Member States shall inform asylum seekers, within a reasonable time not exceeding fifteen days after they have lodged their application for asylum with the competent authority, of at least any established benefits and of the obligations with which they must comply relating to reception conditions. Member States shall ensure that applicants are provided with information on organisations or groups of persons that provide specific legal assistance and organisations that might be able to help or inform them concerning the available reception conditions, including health care.

DOCUMENTATION : Member States shall ensure that, within 3 days after an application is lodged with the competent authority, the applicant is provided with a document issued in his or her own name certifying his or her status as an asylum seeker or testifying that he or she is allowed to stay in the territory of the Member State while his or her application is pending or being examined. If the holder is not free to move within all or a part of the territory of the Member State, the document shall also certify this fact. Member States may exclude application of this Article when the asylum seeker is in detention and during the examination of an application for asylum made at the border or within the context of a procedure to decide on the right of the applicant legally to enter the territory of a Member State. In specific cases, during the examination of an application for asylum, Member States may provide applicants with other evidence. The document need not certify the identity of the asylum seeker. Member States shall adopt the necessary measures to provide asylum seekers with this document which must be valid for as long as they are authorised to remain in the territory of the Member State concerned or at the border thereof. Member States may provide asylum seekers with a travel document when serious humanitarian reasons arise that require their presence in another State. Asylum seekers may move freely within the territory of the host Member State or within an area assigned to them by that Member State. The assigned area shall not affect the unalienable sphere of private life and shall allow sufficient scope for guaranteeing access to all benefits under this Directive. Member States may decide on the residence of the asylum seeker for reasons of public interest, public order or, when necessary, for the swift processing and effective monitoring of his or her application. Member States shall require applicants to inform the competent authorities of their current address and notify any change of address to such authorities as soon as possible. Member States shall take appropriate measures to maintain as far as possible family unity as present within their territory, if applicants are provided with housing by the Member State concerned. Such measures shall be implemented with the asylum seeker's agreement. They may require medical screening for applicants on public health grounds. Member States shall grant to minor children of asylum seekers and to asylum seekers who are minors access to the education system under similar conditions as nationals of the host Member State for so long as an expulsion measure against Them or their parents is not actually enforced. Such education may be provided in accommodation centres. Concerning employment, Member States shall determine a period of

time, starting from the date on which an application for asylum was lodged, during which an applicant shall not have access to the labour market. Member States may allow asylum seekers access to vocational training irrespective of whether they have access to the labour market.

REDUCTION OR WITHDRAWAL OF RECEPTION CONDITIONS : Member States may reduce or withdraw reception conditions in the following cases: where an asylum seeker: abandons the place of residence determined by the competent authority without informing it or, if requested, without permission, or does not comply with reporting duties or with requests to provide information or to appear for personal interviews concerning the asylum procedure during a reasonable period laid down in national law, or has already lodged an application in the same Member State.

PROVISIONS FOR PERSONS WITH SPECIAL NEEDS : Member States shall take into account the specific situation of vulnerable persons such as minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, in the national legislation implementing the provisions of Chapter II relating to material reception conditions and health care.

APPEALS : Member States shall ensure that negative decisions relating to the granting of benefits under this Directive may be the subject of an appeal within the procedures laid down in the national law.

COOPERATION : Member States shall regularly inform the Commission on the data concerning the number of persons, broken down by sex and age, covered by reception conditions and provide full information on the type, name and format of the documents. Member States shall take appropriate measures to ensure that authorities and other organisations implementing this Directive have received the necessary basic training with respect to the needs of both male and female applicants. By 6 August 2006, the Commission shall report to the European Parliament and the Council on the application of this Directive and shall propose any amendments that are necessary. After presenting the report, the Commission shall report to the European Parliament and the Council on the application of this Directive at least every five years.

ENTRY INTO FORCE : 6 February 2003.

IMPLEMENTATION : Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 6 February 2005.

TERRITORIAL APPLICATION : the United Kingdom gave notice, by letter of 18 August 2001, of its wish to take part in the adoption and application of this Directive. On the other hand, Denmark and Ireland are not participating in the adoption of this Directive and is therefore neither bound by it nor subject to its application.