

Submission from the Greek Council for Refugees in response to the Commission
Green Paper Future of the Common European Asylum System

Introduction

2. LEGISLATIVE INSTRUMENTS

2.1 Processing of asylum application

- (1) How might a common asylum procedure be achieved? Which aspects should be considered for further law approximation?
- (2) How might the effectiveness of access to the asylum procedure be further enhanced? More generally, what aspects of the asylum process as currently regulated should be improved, in terms of both efficiency and protection guarantees?

According to our experience and the Greek reality, the most problematic aspect of the issue of access to the asylum procedure is indeed the situation at the border areas, where there is a lack of trained personnel, lack of competent and professional interpreters, no possibility of access to legal councillors. It is very important to finance as many as possible training seminars for police staff. It is also very important to find qualified interpreters for the border areas that could assist the police authorities in their screening endeavour (why not imagine a school for interpreters under EU initiative and control, were students would follow a specific, perhaps protection-oriented course and then be appointed to specific hot spots of the border areas)

- (3) Which, if any, existing notions and procedural devices should be reconsidered?

We feel in particular that the possibility to omit the personal interview with the asylum seeker should be reconsidered and abandoned, or at least be as limited as it can be – it is very important in our view to listen to the asylum seeker exposing his claim in order to make a correct and fair decision.

- (4) How should a mandatory single procedure be designed?

At any case the standards should be raised – If a single procedure is ever designed, it should not include as mandatory the controversial features which are not compulsory for the time being.

- (5) What might be possible models for the joint processing of asylum applications?

Joint processing could be more easily designed in the context of a single asylum procedure throughout the EU. However, even in the current context, teams of asylum experts coupled with qualified interpreters could be created at the EU level and be used to assist member states upon their request to deal with situation that require resources that are not available in the said country (eg. Greece should welcome help in dealing with the backlog of asylum files pending on second instance)

2.2 Reception conditions for asylum seekers

- (6) In what areas should the current wide margin of discretion allowed by the Directive's provisions be limited in order to achieve a meaningful level-playing field, at an appropriate standard of treatment?

Right to employment is the first area in which the margin of discretion should be limited and the same time the minimum standards raised

- (7) In particular, should the form and the level of the material reception conditions granted to asylum seekers be further harmonised?

Even though the present and diverse situation renders more harmonisation as unrealistic, there should be less space left for member states discretion

- (8) Should national rules on access to the labour market be further approximated? If yes, in which aspects?

Member states have the right according to the reception directive to place additional conditions on access to the labour market. This discretion could act as an obstacle to the harmonisation of the relevant standards and more importantly to the integration of beneficiaries

- (9) Should the grounds for detention, in compliance with the jurisprudence of the European Court of Human Rights, be clarified and the related conditions and its length be more precisely regulated?

Perhaps common standards on detention conditions would be helpful, in order to avoid deplorable situations such as those in Malta and Samos. For the rest, we think that the rule should be clear and does not need to be specified in a specific instrument: asylum seekers should not be detained. The question is what happens with irregular entrants who are, according to the wording of art. 5.1.f of ECHR, "lawfully arrested and detained to prevent unauthorised entry into the country or against whom action is being taken with a view to deportation" and subsequently apply for asylum: should these persons be released for the sole reason that they have applied for asylum while in detention? It seems very difficult for the member states to accept tha...t

2.3 Granting of Protection

- (10) In what areas should further law approximation be pursued or standards raised regarding
 - the criteria for granting protection
 - the rights and benefits attached to protection status(es)?
- (11) What models could be envisaged for the creation of a "uniform status"? Might one uniform status for refugees and another for beneficiaries of subsidiary protection be envisaged? How might they be designed?
- (12) Might a single uniform status for all persons eligible for international protection be envisaged? How might it be designed?
- (13) Should further categories of non-removable persons be brought within the scope of Community legislation? Under what conditions?

When people can not be returned for technical / bureaucratic reasons which are beyond their control, they should at least have a series of right allowing them to lead a decent life. In Greece no provision exists for that category of persons: they are only allowed to stay in Greece without any rights: no id, no access to labour market, no access to medical care except in case of emergency, no possibility to open a bank account etc... This can not be accepted and leaves an important number of persons exposed to extreme hardship and suffering.

- (14) Should an EU mechanism be established for the mutual recognition of national asylum decisions and the possibility of transfer of responsibility for protection? Under what conditions might it be a viable option? How might it operate?

2.4 Cross-cutting issues

2.41 Appropriate response to situations of vulnerability

- (15) How could the provisions obliging Member States to identify, take into account and respond to the needs of the most vulnerable asylum seekers be improved and become more tailored to their real needs? In what areas should standards be further developed?
- (16) What measures should be implemented with a view to increasing national capacities to respond effectively to situations of vulnerability?

2.42 Integration

- (17) What further legal measures could be taken to further enhance the integration of asylum seekers and beneficiaries of international protection, including their integration into the labour market?

2.43 Ensuring second stage instruments are comprehensive

- (18) In what further areas would harmonization be useful or necessary with a view to achieving a truly comprehensive approach towards the asylum process and its outcomes?

3. IMPLEMENTATION - ACCOMPANYING MEASURES

- (19) In what other areas could practical cooperation activities be usefully expanded and how could their impact be maximised? How could more stakeholders be usefully involved? How could innovation and good practice in the area of practical cooperation be diffused and mainstreamed?

Cooperation with NGOs and recognition of their contribution towards beneficiaries' protection should be enshrined in the CEAS legal instruments. In this way NGOs involvements will become institutionalized and enhanced. There is a vital need for information sharing. In this regard apart from personnel exchange, IT could be of extreme use. The creation of specialized web site could work in that direction.

- (20) In particular, how might practical cooperation help to develop common approaches to issues such as the concepts of gender- or child-specific persecution, the application of exclusion clauses or the prevention of fraud?
- (21) What options could be envisaged to structurally support a wide range of practical cooperation activities and ensure their sustainability? Would the creation of a European support office be a valid option? If so, what tasks could be assigned to it?
- (22) What would be the most appropriate operational and institutional design for such an office to successfully carry out its tasks?⁰⁵

4. SOLIDARITY AND BURDEN SHARING

4.1 Responsibility sharing

- (23) Should the Dublin system be complemented by measures enhancing a fair burden-sharing?
- (24) What other mechanisms could be devised to provide for a more equitable distribution of asylum seekers and/or beneficiaries of international protection between Member States?

4.2 Financial solidarity

- (25) How might the ERF's effectiveness, complementarity with national resources and its multiplier effect be enhanced? Would the creation of information-sharing mechanisms such as those mentioned above be an appropriate means? What other means could be envisaged?
- (26) Are there any specific financing needs which are not adequately addressed by the existing funds?

In general, funds are always not adequate. We welcome the new allocation of funds and the special provisions for emergency measures. However, we express our concern on how are these emergencies going to be identified, given the fact that there is still no comprehensive statistics framework for migration and asylum, as the relevant EC Regulation was recently adopted. Furthermore, we call for a transparent management of those allocations. Even though the following is not an identification of a new specific need protection of refugees and asylum seekers should always be on the top of the funding agenda

5.1 Strengthening protection in third countries

- (27) If evaluated necessary, how might the effectiveness and sustainability of Regional Protection Programmes be enhanced? Should the concept of Regional Protection Programmes be further developed and, if so, how?
- (28) How might development assistance be more effectively targeted with a view to underpinning and sustaining solutions for asylum seekers and refugees?
- (29) How might the Community's overall strategies vis-à-vis third countries be made more consistent in the fields of refugee assistance and be enhanced?

5.2 Resettlement

- (30) How might a substantial and sustained EU commitment to resettlement be attained?
- (31) What avenues could be explored to achieve a coordinated approach to resettlement at EU level? What would be required at financial, operational and institutional level?
- (32) In what other situations could a common EU resettlement commitment be envisaged? Under what conditions?

5.3 Addressing mixed flows at the external borders

- (33) What further measures could be taken to ensure that protection obligations arising out of the EU *acquis* and international refugee and human rights law form an integral part of external border management?
- (34) How might national capacities to establish effective protection-sensitive entry management systems be increased?

5.4. The role of the EU as a global player in refugee issues

- (35) How could European asylum policy develop into a policy shared by the EU Member States to address refugee issues at the international level? What models could the EU use to develop into a global player in refugee issues?

CONCLUSION

