

ΕΛΛΗΝΙΚΗ ΔΗΜΟΚΡΑΤΙΑ
ΕΘΝΙΚΗ ΕΠΙΤΡΟΠΗ ΓΙΑ ΤΑ ΔΙΚΑΙΩΜΑΤΑ ΤΟΥ ΑΝΘΡΩΠΟΥ

Νεοφύτου Βάμβα 6 (3ος όρ.), 10674 Αθήνα, τηλ: 210 7233221-2; φαξ: 210 7233217;
e-mail: info@nchr.gr, website: www.nchr.gr

**Recommendations of the NCHR, the Ombudsman, the High
Commissioner for Refugees and the Greek Council for
Refugees on Migration and Asylum in the light of the Greek
Presidency of the EU Council**

The aim of the Conference was to inform and sensitize the Greek audience and to allow for exchange of ideas and experience between those involved in migration and asylum policy in Greece and in the EU, whose actions are distinct but complementing each other.

Greece will take the Presidency of the EU Council (January 2003) at a critical point for the process of substantive harmonization in the areas of asylum and immigration according to the Treaty of Amsterdam and Tampere Conclusions. The European Council of Seville has set as a deadline December 2003 for the adoption of a series of EU legislative pieces in the aforementioned areas.

The main legislative texts or drafts of the EU Commission that were discussed during the conference were the following:

Migration

1. Proposal for a directive on the right to family reunification of third country nationals; 2. Proposal for a directive on the status of third country nationals who are long-term residents; 3. Proposal for a directive on entry and residence of third country nationals for paid employment and self-employed economic activities; 4. Proposal for a directive on the short term residence permit for victims of trafficking.

Asylum

1. Directive 2001/55/EC 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 hereof; 2. Proposal for a directive on minimum standards on procedures for granting and withdrawing refugee status in Member States; 3. Proposal for a Directive on laying down minimum standards for the reception of asylum seekers 4. Proposal for a Regulation establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national; 5. Proposal for a Council Decision adopting an action programme for administrative cooperation in the fields of external borders, visas, asylum and immigration; 6. Proposal for a Directive 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.

The Greek Presidency will deal particularly with texts nos 2, 3, 4 and 6. For Greece, as an entry point, text no 4 is quite significant.

The aforementioned texts promote the harmonization of Member-States legislation and practices and will contribute to the creation of a comprehensive and substantive framework in the areas of asylum and migration.

The basic principle of the EU policy needs to be a comprehensive approach of all sub-questions of asylum and migration placing emphasis not just on the cooperation between Member-States but also with the States of origin and transit States. As far as those are concerned, EU needs to intensify programs aiming at their democratization (social development) and sustainable economic development.

Migration

The expanding economic and social gap between poor and rich countries, which intensifies the transnational movement of people have complicated the management of migration and this needs to be addressed by all States.

All States –either of origin or reception- need to intensify their efforts for the creation of those conditions which will contribute to the decrease of migration flows.

The planning of EU's common migration policy needs to be based on the following principles:

(a) Immigration enriches the economic, social and cultural life of the reception States.

(b) Immigrants must be treated according to international human rights law and the principle of non-discrimination.

(c) States must determine their capacity of migrants 'absorbance' taking into account the reasons that force migrants to seek better living conditions elsewhere.

The Greek Presidency should continue having as priorities:

- The completion of training programs for border guards with emphasis on human rights education.
- The completion of the cooperation between Member-States for the effective control of external borders, especially maritime borders, always on the basis of human rights protection principles.
- The completion of harmonization of Member-States policies and practices for the protection of human trafficking victims.
- The improvement of repatriation programs for undocumented migrants and asylum seekers who have not been granted refugee status through operational cooperation of Member-States and the establishment of minimum standards and readmission agreements.
- The creation of a European Observatory for Migration in Europe ensuring that the Observatory will effectively contribute to the

formation of a comprehensive European migration and asylum policy.

- Combating racism, xenophobia and intolerance in Member-States.
- The support of legal migration for employment, studying and family reunification through flexible legislative framework.
- The integration of long-term migrants and refugees through programs of support for migrant and refugee communities, sensitization and education of European societies.

Regarding Greek migration policy, Law 2910/2001, as amended by Law 3013/2002, sets extremely complicated and bureaucratic procedures. Consequently, the dominant type of migration in Greece is the illegal one.

Greek migration policy needs to be structured anew on the basis of contemporary international and European human rights standards and scientific research rendering clear its goals and omitting any bureaucratic and conflicting provisions. The Institute of Migration Policy needs to start operating immediately.

The Ministry of Interior needs to prioritize the staffing and function of the new Directorate of Aliens and Migration. Appropriate infrastructure and continuous training and education of its staff are necessary preconditions for its effectiveness.

Asylum

All reception States must implement the humanitarian spirit of the Convention on the Status of Refugees in accordance with the criteria adopted by the UN High Commissioner for Refugees and, in particular, comply with the principle of *non-refoulement*. Furthermore, they need to take into account complementary types of protection based on international provisions prohibiting torture, and other means of cruel, inhuman or degrading treatment or punishment.

All States must place emphasis on voluntary return of refugees and displaced persons to countries or areas of origin in accordance with the established principles of international law.

Despite the importance and worth of the aforementioned texts, we are concerned with the exceptions from general principles of refugee protection set by them.

Regarding 'Dublin II' we note that it needs to address the abusive asylum applications and the equal burden-sharing by Member-States. The procedures need to be prompt and fair so as to provide effective protection to refugees, especially torture victims and unaccompanied minors.

Greek Presidency must pay particular attention to the questions of accessing the EU and the asylum process and to the idea of 'externalising' asylum procedures to countries of origin or neighboring countries.

Regarding the Greek refugee protection framework, we express our concern in relation to the idea of decentralizing asylum procedures. The Ministry of Public Order in cooperation with other competent Ministries needs to modernize the current framework on the basis of European and international *acquis* giving priority to the following issues:

- Ensuring decent reception conditions for asylum seekers by building appropriate reception centres.
- Staffing all competent services, mostly in the border areas, with appropriate personnel and official interpreters.
- Ensuring access of asylum seekers to prompt and fair asylum procedures. Particular attention needs to be given to the excess of time limits in asylum procedure set by the law. The expansion of accelerated procedure should be considered with the precondition that all procedural guarantees of international and European refugee protection are observed. Furthermore, the Ministry of Public Order needs to establish clear conditions for the renewal of 'humanitarian status' of aliens, by stressing that the renewal always takes place when the reasons for granting humanitarian status have not elapsed.
- Providing legal aid to anyone in need of.
- Reforming the current system of examination of asylum applications in the second instance.

- Establishment of an Inter-ministerial Coordinating organ for the cases of mass influxes.
- Full protection to unaccompanied minors.
- Social support to refugees and asylum seekers.
- Promotion of social integration of all recognized refugees and 'humanitarian refugees' who remain in Greece for long periods.

Athens, 9 November 2002