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to : Permanent Representatives Committee

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No. Cion prop. : 13620/01 ASILE 52 - COM(2001) 510 final

Subject : Proposal for a Council Directive on minimum standards for the qualification and status of third country nationals and stateless persons as refugees or as persons who otherwise need international protection

At its meeting on 30 October 2002, the Permanent Representatives Committee discussed Articles 2 (e) and 15 of this proposal.

Delegations will find in the Annex the text of these Articles as modified by the Presidency.

Proposal for a Council Directive on minimum standards for the qualification and status of third country nationals and stateless persons as refugees or as persons who otherwise need international protection¹

Article 2

Definitions

...

- (c) “Refugee” means a third country national who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, political opinion or membership of a particular social group, is outside the country of nationality and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country, and a stateless person, who, being outside the country of former habitual residence for the same reasons as mentioned above, is unable or, owing to such fear, unwilling to return to it, and to whom Article 14 does not apply;
- (e) “Person eligible for subsidiary protection” means a third country national or a stateless person who does not qualify as a refugee but in respect of whom substantial grounds have been shown for believing that the person concerned, if returned to his or her country of origin, or in the case of a stateless person, to his or her country of former habitual residence, would face a real risk of suffering serious [...] harm as defined in Article 15, and to whom Article 17(1) **and (2)** does not apply, and is unable or, owing to such risk, is unwilling to avail himself or herself of the protection of that country;

...

¹ NL : parliamentary scrutiny reservation.

Article 15
Serious [...] harm

Serious [...] harm consists of:

- (a) death penalty or execution; or
- (b) torture or inhuman or degrading treatment or punishment of an applicant in his or her country of origin, or in the case of a stateless person, his or her country of former habitual residence;
or¹
- (c) [...] serious and individual threat² to a civilian's life or person³ by reason of indiscriminate violence in situations of international or internal armed conflict.

¹ The following recital will be added to the Preamble:
"Whereas those third country nationals or stateless persons, who are allowed to remain in the territories of the Member States for reasons not due to a need for international protection but on compassionate or humanitarian grounds, fall outside the scope of this Directive."

² **D** : the scope of the threat should be clarified. In order to solve this question, **the Chair** suggests to add the following recital to the Preamble :
"Whereas third country nationals or stateless persons fleeing due to a general sense of insecurity in situations of international or internal armed conflicts fall outside the scope of this Directive."

³ **D** : add "freedom from arbitrary detention".
NL : add "freedom from arbitrary arrest or detention".
To meet these concerns, **the Chair** suggests the following wording :
*"(c) serious and individual threat to a civilian's life or person, **or inhuman or degrading treatment or punishment through arbitrary detention**, by reason of indiscriminate violence in situations of international or internal armed conflict."*