



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 17 November 2005**

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**ASILE 36**

**"I/A" ITEM NOTE**

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from : General Secretariat of the Council  
to : Permanent Representatives Committee / Council

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Prev. doc. : 14203/04 ASILE 64 + ADD 1  
No. Cion prop. : 10279/02 ASILE 33 + REV 1 (de, en, fr) - COM(2002) 326 final/2

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Subject : Adoption of a Council Directive on minimum standards on procedures in Member States for granting and withdrawing refugee status

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1. The Commission forwarded its original proposal concerning the above-mentioned matter on 24 October 2000.

The purpose of this proposal was to establish equivalent procedures in Member States for examining applications for asylum.

The European Parliament delivered its Opinion on 20 September 2001 and the European Economic and Social Committee on 26 April 2001.

2. On 6 December 2001, the Council adopted Conclusions on this issue and invited the Commission to present a modified proposal. On June 2002, the Commission forwarded its modified proposal.

3. On 29 April 2004, the Council reached a general approach on this modified proposal and instructed its bodies to pursue work in order to reach a solution concerning safe countries of origin. The solution reached consisted of postponing the adoption of a minimum common list of safe countries of origin until the adoption of the Directive.

On 19 November 2004, the Council confirmed its general approach and its wish to reconsult the European Parliament.

4. The European Parliament delivered its Opinion on the Council's general approach on 27 September 2005.

On 13 October 2005, the JHA Counsellors met and examined the European Parliament Opinion.

5. In accordance with Articles 1 and 2 of the Protocol on the position of Denmark, annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark is not taking part in the adoption of this Directive and is not bound by it nor subject to its application.

On 24 January 2001 and 14 February 2001 respectively, the United Kingdom and Ireland notified their wish to participate in the adoption of this Directive in accordance with Article 3 of the Protocol on the position of the United Kingdom and Ireland.

6. Acceding States were consulted subsequently via Common Guidelines. Bulgaria made no comments by the relevant deadline which expired on 31 October 2005, whilst Romania sent comments on 31 October 2005 agreeing with the content of the text.

7. The Permanent Representatives Committee is invited to suggest that the Council:
  - adopt the Directive as set out in 12983/05 ASILE 24 (text finalised by the Legal Linguistic experts);
  - enter in its minutes the statements as set out in the Annex, as agreed on 19 November 2004.

Statements to the Council minutes

1. Re Article 3

"**The Council** is of the view that the Member States which apply the provisions of Article 3(3) of the Directive can, where they suspend an examination of an application for asylum in accordance with Article 17 of Council 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 thereof), also suspend the examination of the application for other kinds of international protection covered by the procedure referred to in Article 3(3) until such time as that suspension no longer applies."

2. Re Article 27

"In adopting this Directive **the Council** recognises, having regard to the differing legal and constitutional traditions, that the rights of individuals are safeguarded in Member States according to their varying administrative, judicial and legal systems."

3. Re Article 29

"**The Council** invites the Commission to submit, as soon as this Directive has entered into force, a proposal allowing the Council to adopt a minimum common list of third countries that shall be regarded by Member States as safe countries of origin."

4. Re Annex II to the Directive

"**The Council** stresses its support for the abolition of the death penalty, as expressed in Protocols No. 6 and 13 to the Convention for the Protection of Human Rights and Fundamental Freedoms. However, the Council recognises that ceasing to impose and execute the death penalty is a significant step towards abolishing the death penalty and encourages countries to continue their progress towards this end."