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NOTE

from : the Belgian delegation

to : CIBEFI

Subject : The regularisation operation and the associated temporary reintroduction of border checks pursuant to Article 2 (2) of the Schengen Convention

Delegations will find attached a note from the Belgian delegation concerning the above subject.

Note from the Belgian delegation

Subject: The regularisation operation and the associated temporary reintroduction of border checks pursuant to Article 2 (2) of the Schengen Convention

3 February 2000

The regularisation operation and the associated temporary reintroduction of border checks pursuant to Article 2 (2) of the Schengen Convention

The operation took place during the period 10-30 January 2000.

The grounds for carrying out a one-off regularisation were as follows:

- * the increase in the number of asylum applications over the years, the lengthy and complex asylum procedures, the serious backlog of applications faced by the various competent authorities, the inability to implement planned expulsion measures in respect of rejected asylum-seekers, the massive influx of certain groups due to dramatic circumstances, etc.
- * the large number of persons concerned and their social instability and marginality, the damage caused by their illegal participation in the labour market and the possibility of public policy problems led the government to undertake an extensive regularisation operation.

There were two reasons for temporarily reintroducing border checks:

- * on the one hand, the intention was to intercept and send back illegal immigrants who abused the current regularisation procedure.
- * on the other hand, the government wanted to deter would-be immigrants and facilitator networks.

The regularisation procedure

An information package was presented to the General Secretariat of the Council containing the relevant legal and regulatory texts. It is intended that each of the countries and authorities participating in the Convention should receive a copy.

There are in fact four texts: the Law of 22 December 1999 on regularisation (which entered into force on 10 January 2000), the Royal Decree of 5 January 2000 on the composition and operation of the Regularisation Committee, the circular of 6 January 2000 addressed to the local authorities and an information leaflet for persons whose residence status is illegal or uncertain.

Who is covered by the procedure?

Aliens who were already resident in Belgium on 1 October 1999 and who satisfy one or more of the following criteria at the time at which the application is submitted:

1. persons who have applied for refugee status but who have not received a final decision within four years (three years in the case of families which include minor

school-age children);

2. persons who, through no fault of their own, cannot return to the country in which they had their habitual residence prior to arriving in Belgium, nor to their country of origin or of nationality;
3. persons who are seriously ill;
4. persons in respect of whom humanitarian reasons might prevail and who have developed lasting social links in Belgium.

The procedure does not apply to aliens who present a danger to public order or national security or those who have clearly applied for asylum by fraudulent means.

What form does the procedure take?

1. Applications, together with the necessary supporting documents, are submitted via the municipality of residence between 10 and 30 January 2000.
A further one-month period is allowed in order to add missing documents to files.
2. The local authorities forward the applications to the Regularisation Committee, which is an independent body.
3. The Committee gives its opinion on the applications in the form of recommendations addressed to the Minister for the Interior.
4. The Minister or his representative rules on the applications. The Minister would generally be expected to follow the Committee's recommendations.

The procedure is a one-off operation designed to prevent the formation of a new group of undocumented persons. The aim is to take more stringent action against illegal aliens in future and to deal efficiently with the removal of such persons.

Every effort will be made to complete the operation by the end of the year.

Provisional assessment at the end of the three-week period

The number of regularisation cases is estimated at between 35,000 and 40,000.

More information will be provided at the next CIREFI meeting concerning nationalities, numbers of applications per criterion, families with and without children, age categories, etc.

Effects of border checks

Around 130,000 people were checked during the three-week period in question, of whom 1,647 were refused entry to Belgian territory for various reasons. 432 people were refused entry because they did not have the necessary identity papers.

Most of those concerned were Turks or persons claiming to come from the Federal Republic of Yugoslavia (some of whom were probably in fact Albanians). They were turned over to the German authorities.

There has been a marked deterrent effect. The number of asylum applications received in January almost halved in comparison with December (from 4,691 to 2,795). The drop relates mainly to asylum-seekers from Eastern Europe and the former Soviet republics. The number of persons intercepted during checks to prevent illegal emigration to the United Kingdom also fell during the last two weeks of January, as did the number of unaccompanied minors concerned.

Although more stringent border checks can obviously be sustained only for a limited period, checks in border areas will be stepped up at regular intervals in future. More specifically, checks on trains and suspect vehicles within Belgian territory will be intensified.

In conclusion, our heartfelt thanks go to our neighbouring partners, and in particular the Federal Republic of Germany, with which we enjoyed an excellent collaboration and exchange of information during those three weeks. Those experiences will undoubtedly lead to intensive forms of cooperation.

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