

SQL-WP1
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REV 1
RESTREINT

ASIM 51

NOTE

from : Presidency

dated: 21 February 1994

to : Working Group on Asylum

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Subject: Definition of the minimum guarantees to be offered by national procedures for examining asylum applications

At its meeting on 17 March 1994 the Working Group on Asylum continued its examination of the definition of the minimum guarantees to be offered by national procedures for examining asylum applications.

In the course of the discussion, a number of delegations proposed drafting amendments or improvements to subparagraphs (a) to (c) of the document. The rest of the document remained unchanged in relation to 4354/94 ASIM 9.

As a result, the Presidency made the following amendments to the previous text:

I. INTRODUCTION

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II. EXISTING SITUATION

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- (a) the application for refugee status must be examined by a competent authority which is duly qualified with regard to asylum. It will take its decisions independently, in the sense that it will carry out its examinations and take its decisions objectively and impartially;
- (b) the authorities responsible for border controls and the local authorities with which asylum applications are lodged must receive clear and detailed instructions on how to proceed in such circumstances. In this connection, applications which are to be sent will be forwarded to the authority competent in matters relating to asylum as referred to in (a), together with all possible information and all written documents, to ensure that they are examined individually;
- (c) the Member States reaffirm their undertaking that the principle of non-refoulement provided for in Article 33 of the 1951 Geneva Convention will be complied with at all times.

Applicants for asylum may be allowed provisionally to reside in the territory of the Member State in which the application is to be examined, provided that it is not manifestly unfounded within the meaning of the Resolution adopted in London on 30 November and 1 December 1992.

Detailed rules on admission and residence will be governed in accordance with national legislation;

- (d) an opportunity to appeal against a decision to refuse the application at first instance must be provided for, depending on the system in force in each Member State;

- (e) the applicant must receive all the necessary information relating to his rights as well as the means to submit his application freely to the competent authority. In particular:
- (i) he must be able to call upon the services of an interpreter;
 - (ii) he must be able to communicate freely with the Office of the United Nations High Commissioner for Refugees and vice versa;
 - (iii) the representative of the United Nations High Commissioner for Refugees or his authorized replacement must be permitted to be present as an observer during the examination procedure and take note of the decisions of the competent authorities;
- (f) decisions relating to each stage of the application for refugee status (at first and second instance) must be notified to the applicant in good and due form and full reasons supplied;
- (g) if refugee status is granted, the applicant must receive a written certificate confirming such status, in accordance with Article 27 of the 1951 Geneva Convention;
- (h) in principle, the confidentiality of the application for refugee status, of the applicant's statements and of the other information in his file must be guaranteed.

III. CONCLUSION

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