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RESTREINT

ASIM 51

N O T E

from : the Presidency

dated: 21 February 1994

to : the Asylum Working Party

No. prev. doc.: 4354/94 ASIM 9

Subject: **Defining minimum guarantees to be offered by national procedures for examining asylum applications**

The definition of minimum guarantees to be offered by national procedures for examining asylum applications was discussed at the meeting of the Asylum Working Party on 7/8 February 1994 (doc. 4354/94 ASIM 9).

When it was being examined, a number of delegations proposed drafting amendments or improvements to subparagraphs (a) to (j) on pages 4 to 6 of the document. The rest of the document remained unchanged.

As a result, the Presidency arranged for the necessary amendments to be made, and they are set out below :

I. INTRODUCTION

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II. EXISTING SITUATION

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III. THE AIM IN VIEW

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- (a) the application for refugee status must be examined by a competent central authority, which will take its decisions independently ;
 - (b) the authorities responsible for border controls and the local authorities with which asylum applications are lodged must receive clear and detailed instructions so that applications, inasmuch as they are deemed acceptable in principle, are forwarded in the appropriate manner, together with all possible information and all written documents, to ensure that they are examined objectively and impartially ;
 - (c) until a decision is taken on an application for refugee status, the applicant must be allowed to reside in the territory of the State to which the application is addressed, in accordance with that State's domestic legislation and practice.

This is without prejudice to the principle of NON-REFOULEMENT provided for in Article 33 of the 1951 Geneva Convention relating to the Status of Refugees ;

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

(e) the applicant must be given 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 also be issued with a written certificate confirming such status, in accordance with Article 27 of the 1951 Geneva Convention relating to the Status of Refugees ;

(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.

IV. CONCLUSION

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