

EUROPEAN UNION
THE COUNCIL

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RESTREINT

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NOTE

from : Belgian delegation

to : K.4 Committee

Subject: Draft Resolution on minimum guarantees for asylum procedures
- note from the Belgian delegation on asylum applications from a national of a Member State

The Belgian delegation suggests incorporating the following new sub-title after point 17 of the Resolution: "application for asylum from a national of a Member State", and adding a new paragraph, reading:

"The Member States note that, as parties to the European Convention for the Protection of Human Rights and Fundamental Freedoms, and insofar as they do not apply Article 15 of that Convention, there should not be any legal grounds, in compliance with the 1951 Geneva Convention, for granting refugee status to an asylum seeker who is a national of another Member State.

On that basis, an application for asylum submitted by a national of another Member State will, in accordance with the rules and customs of each Member State, form the subject of a particularly rapid or simplified procedure."

SEMDOC

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Article 2 of the Treaty on European Union stipulates that the questions referred to in Article K.1 and in particular asylum policy are to be dealt with in compliance with the European Convention for the Protection of Human Rights and Fundamental Freedoms. This is a requirement from which the Member States may not derogate and which can therefore constitute a legal basis for review that there should not be any legal grounds for granting refugee status to an asylum seeker who is a national of another Member State.

However, the Belgian delegation takes the view that this condition is sufficient only if coupled with non-application of Article 15 of the Convention, which allows for derogations from the obligations laid down therein.

