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NOTE

from : Migration Working Party (Admission)

to : Steering Group I (Asylum/Immigration)

Subject: – Draft Council Resolution on burden-sharing with regard to the admission and residence of displaced persons on a temporary basis

– Draft joint action concerning the creation of a rapid consultation centre

At its meeting on 6 February 1995 the Migration Working Party (Admission) examined the new draft Council Resolution on burden-sharing submitted by the French Presidency.

The text set out in the Annex reflects current thinking.

SEMDOC
Statewatch European Documentation &
Monitoring Centre on justice and home
affairs in the European Union

PO Box 1516, London N16 0EW, UK
tel: 0181 802 1882 (00 44 181 802 1882)
fax: 0181 880 1727 (00 44 181 880 1727)

**DRAFT COUNCIL RESOLUTION ON BURDEN-SHARING
WITH REGARD TO THE ADMISSION AND RESIDENCE OF DISPLACED PERSONS
ON A TEMPORARY BASIS**

THE COUNCIL, ⁽¹⁾

Done at,

Having regard to the Treaty on European Union, and in particular Article K.1 thereof,

Having regard to the priority work programme adopted by the Council in Brussels on 30 November 1993, which makes provision for detailed examination of the question of burden-sharing with respect to the admission and residence of refugees in Western Europe,

Having regard to the Resolution on people displaced by the conflict in the former Yugoslavia, adopted by the Ministers with responsibility for immigration in London on 30 November and 1 December 1992; having regard to the Resolution on certain common guidelines as regards the admission of particularly vulnerable groups of distressed persons from the former Yugoslavia, adopted by the Ministers with responsibility for immigration in Copenhagen on 1 and 2 June 1993,

Having regard to the Resolution adopted by the European Parliament on 19 January 1994 on the general principles of a European refugee policy, which emphasized the need for refugees to be distributed evenly among the various countries of the Union,

Having regard to the communication on immigration and asylum policies submitted by the Commission on 23 February 1994,

Whereas the European Council in Essen on 9 and 10 December 1994 paid tribute to the readiness shown by individual Member States to admit temporarily a large number of refugees of civil war and called upon the Council (Justice and Home Affairs) to study the problems caused by an influx of refugees with a view to finding as soon as possible an effective arrangement for future sharing of the burden of humanitarian assistance;

⁽¹⁾ Only paragraphs 1 to 4 of the enacting terms of the draft Resolution have been examined by the Working Party; passages amended are underlined.

Whereas the top priority in conflict situations where people are being displaced is for measures to restore peace; whereas aid to the civilian population caught up in these situations should mainly be provided on the spot, in particular by creating safe areas and security corridors and by providing humanitarian aid;

Whereas, however, the Council agrees that the Member States should, where possible, continue to give temporary refuge to people whose lives or health are under threat as a result of armed conflict or civil war in future, if there is no other way of averting danger, bearing in mind the UNHCR principle of regionalization;

Whereas, when such a situation arises, it is desirable that the conditions for admission and residence of these persons should be arranged in a concerted fashion and in a spirit of solidarity between the Member States of the European Union;

Whereas the Member States are wedded to the principle that the reaction to emergencies in countries close to the European Union should, as far as possible, be the same;

Whereas Member States should be called upon to harmonize their existing arrangements for displaced persons, in order to avoid changes in migratory flows purely on account of differences in national legislation or practice;

Whereas it is also necessary to agree on a sufficiently precise framework that would regulate operational initiatives but be flexible enough to authorize the admission of persons forced to leave their countries - if necessary outside the normal procedures for applying for refugee status;

Whereas, moreover, situations of great urgency, particularly as a result of armed conflict or civil war in third countries, which confront Member States with sudden major population movements, require prompt action, so that the instruments and mechanisms for the admission of displaced persons must be in place beforehand; whereas it is therefore necessary to enable Member States to adopt decisions which need to be taken urgently in certain situations requiring prompt action without their being delayed by complicated procedures that have to be initiated beforehand,

HEREBY ADOPTS THIS RESOLUTION

1. (a) This Resolution applies to persons whom the Member States of the European Union are prepared to admit on a temporary basis under appropriate conditions in the event of armed conflict or civil war. The persons concerned are in particular:
- persons who have been held in a prisoner-of-war or internment camp and who cannot otherwise be saved from a threat to life or limb;
 - persons who are injured or seriously ill and for whom medical treatment cannot be obtained locally;
 - persons who are under a direct threat to life or limb and whose protection cannot otherwise be secured;
 - persons who have been subjected to sexual assault provided that there is no suitable means for assisting them in safe areas situated as close as possible to their homes;
 - persons who have come directly from combat zones within their borders and cannot return to their homes because of the conflict and human rights abuses.
- (b) This Resolution does not apply to any person with respect to whom there are serious reasons for considering that he has:
- committed a crime against peace, a war crime or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;
 - committed a serious non-political crime outside the host country prior to his admission. ⁽¹⁾

(¹) For reasons of clarity the Presidency propose drafting this indent as follows:
"committed a serious non-political crime before being temporarily admitted by one of the Member States."

2. A given situation may require harmonized action to help displaced persons when for instance:
 - there is a mass influx of displaced persons into the territory of the Member States of the European Union or a strong probability that the Member States may soon have to cope with such an influx; and
 - the UNHCR indicates that help and adequate protection are not available in the region of origin or when the Union could itself be considered as belonging to the region of origin. ⁽¹⁾
3. Some situations may require prompt action to avert a serious threat to human life. It will be easier to take the requisite action in such situations if a permanent rapid-consultation structure is set up; the Council moreover confirms that this will be done. ⁽²⁾
4. The Council agrees that when provisions are drawn up to deal with any future crisis involving displaced persons, all the relevant factors should be taken into account, including:
 - the circumstances of the influx;
 - the contribution which each Member State is making to prevention or resolution of the crisis, in particular by the supply of military resources in operations ordered by the United Nations Security Council and the measures taken by each Member State to afford local protection to people under threat or to provide humanitarian assistance;

⁽¹⁾ For clarity's sake the Presidency suggests the following wording:

"... the Union is so close to the region concerned that it could itself be considered as belonging to the region of origin."

⁽²⁾ Reservation from the German delegation pending examination of the draft joint action concerning the creation of a rapid consultation centre.

(¹) – national capabilities and the capacity of the various Member States, particularly bearing in mind:

- * population size;
- * surface area;
- * GDP;
- * existing immigrant population;
- * unemployment rate;
- * amount of development aid granted.

5. (a) This Resolution must not have the effect of forcing persons seeking a host country to move between Member States.

(b) As regards persons who have applied to a Member State for protection under the Geneva Convention on the Status of Refugees of 28 July 1951, this Resolution must not stand in the way of the rules laid down by the Dublin Convention of 15 June 1990 or, for the Member States concerned, by the Convention applying the Schengen Agreement of 19 June 1990.

6. This Resolution does not affect practices relating to admission on humanitarian grounds followed by individual Member States or by all Member States under bilateral or multilateral agreements.

7. The above procedure does not apply to displaced persons who were admitted to the various Member States before adoption of this Resolution.

(¹) A number of delegations entered reservations.

DRAFT COUNCIL ACT OF ...
ADOPTING A JOINT ACTION
CONCERNING THE CREATION OF A RAPID CONSULTATION CENTRE

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article K.1 thereof,

Having regard to the conclusions of the European Council meeting in Essen on 9 and 10 December 1994,

Having regard to the Council Resolution on burden-sharing with regard to the admission and residence of displaced persons on a temporary basis, adopted at _____, on _____,
Whereas emergencies, in particular as a result of armed conflict or civil war in third countries, in which the Member States have to cope with sudden major population movements, may require a prompt and coordinated reaction by the Member States;

Whereas such prompt reaction will be facilitated by the establishment of a permanent rapid consultation structure;

Whereas the aims of this structure must be to determine possible solutions for the admission of persons displaced by armed conflict or civil war;

Whereas on 28 March 1991 the Ministers with responsibility for immigration decided to create a rapid consultation centre within the Troika in order to deal with the problems likely to result from sudden major movements of immigrants,

HAS ADOPTED THE FOLLOWING PROVISIONS

Article 1

The creation of a rapid consultation centre is hereby confirmed; this centre shall henceforth operate within the European Union.

Article 2

The rapid consultation centre shall be responsible for:

- analysing the extent and features of sudden major movements of displaced persons and the problems created, in the territory of the European Union, by such movements;
- preparing, where necessary, any proposals on the attitude to be adopted by the Member States to such problems;
- submitting, where necessary, initiatives to the relevant Council bodies.

Article 3

The rapid consultation centre shall operate as follows:

- it shall be composed of the Troika in the Asylum-Immigration Steering Group, which shall meet to issue proposals;
- any proposal shall be submitted to the Committee provided for in Article K.4 of the Treaty on European Union, which shall refer the matter to the Council when a decision has to be adopted;
- [- if necessary, a proposal shall be forwarded immediately to other competent fora (Troika or plenary structure operating within the Community framework or under the provisions of Title V of the Treaty on European Union), for instance by simple written consultation; these fora shall give their opinions as soon as possible;]
- the Commission shall be fully associated with the centre's work;
- the secretariat for the rapid consultation centre shall be provided by the General Secretariat of the Council.

Article 4

This Decision shall take effect on ...

Done at Brussels

For the Council
The President
