

5357/1/97
REV 1

~~LIMITÉ~~

CIREA 5

"I/A" ITEM NOTE

to : COREPER/Council

No. prev. doc.: SN 1452/97

Subject: CIREA activity reports for 1994/1995 and 1996

The Centre for Information, Discussion and Exchange on Asylum (CIREA) submitted two reports on its activities for approval by the K.4 Committee, the first for the years 1994 and 1995, the second for 1996.

At its meeting on 25 and 26 March 1997, the K.4 Committee approved these two reports.

The Permanent Representatives Committee might record agreement on the reports and suggest that, as an "A" item on its agenda, the Council order their publication in the "C" series of the OJ in order to ensure greater transparency of CIREA's activities ⁽¹⁾.

(¹) The second CIREA activity report (covering the second half of 1996) was published in OJ No 274 of 19.9.1996, in accordance with the Council Decision of 23 November 1995 relating to publication in the OJ of acts and other texts on asylum and immigration adopted by the Committee (since entry into force of the Treaty on European Union).

Activity report
on the
Centre for Information, Discussion and
Exchange on Asylum (CIREA)
for 1994 and 1995

The ministerial decision establishing the Centre for Information, Discussion and Exchange on Asylum (CIREA) stipulates that CIREA is to draw up activity reports for the Council. CIREA has already submitted a report on the first and second halves of 1993. The present report describes CIREA's activities in 1994 and 1995.

I. General

(a) **Number of meetings**

CIREA held four meetings in 1994 ⁽¹⁾ (21 January, 23 September, 19 October and 8 December) and eight in 1995 (13 February, 5 April, 4 May, 1 June, 7 September, 6 October, 8 November and 12 December).

⁽¹⁾ of which three were in the second half.

From the second half of 1994 in particular CIREA increased the number of meetings and gave greater depth to its work through more diversified and more detailed discussion on asylum.

Generally, national experts responsible for examining asylum applications attend CIREA meetings. However, the heads of bodies responsible in the Member States for granting refugee status met in CIREA for the first time on 1 June 1995, under the French Presidency.

(b) **Participation of the UNHCR in meetings**

Further to initiatives to that end, first within CIREA and subsequently confirmed by COREPER (Part 2), the Office of the United Nations High Commissioner for Refugees was invited to attend CIREA meetings as from the first half of 1995. The UNHCR was not given observer status, but was called upon to cooperate in CIREA's proceedings on specific issues on its agenda.

Its presence was a useful contribution to discussions in CIREA. The UNHCR also submitted written contributions concerning source third countries of asylum-seekers. The information in question was established by the UNHCR's Centre for Documentation on Refugees on the basis of public data, the source of which is indicated in the document.

(c) **Preparation of the new Member States for accession**

CIREA continued the informal talks, begun in 1993 with the new Member States – at the time candidates for accession to the European Union – in order to learn more about the situation as regards asylum policy in those countries. CIREA held meetings with Austrian and Swedish representatives. The issues discussed were domestic legislation on asylum, the institutional structure laid down for decision-making on asylum, the number and provenance of asylum-seekers and certain aspects relating to displaced persons from former Yugoslavia.

CIREA did not hold a meeting with Finland, but received a document from it containing a detailed description of several aspects of importance as regards asylum (processing of applications for asylum, reasons for decisions, situation regarding appeals and decision-making procedure in the field of asylum).

II. Adoption of acts to establish CIREA

The following decisions relating to CIREA were taken by the Council in 1994:

- the procedure for preparing reports in the framework of the common assessment of the situation in third countries;
- guidelines on the content of joint reports on third States; ⁽¹⁾
- the rules on the dissemination and confidentiality of joint reports on the situation in certain third countries. ⁽²⁾

⁽¹⁾ published in OJ No C 274, 19.9.1996, p. 52.

⁽²⁾ published in OJ No C 274, 19.9.1996, p. 43.

III. CIREA's work in 1994 and 1995

(a) Examination of the situation of source third countries of asylum-seekers

In 1994 and 1995 CIREA carried out a detailed examination of the situation in the following source third countries or regions of asylum-seekers in a number of Member States:

- ALBANIA
- BHUTAN
- BHUTAN nationals of Nepalese origin
- CAUCASUS
- BULGARIA
- MYANMAR
- IRAQ
- independent REPUBLICS (GEORGIA, AZERBAIJAN) and REPUBLICS of the RUSSIAN Federation (NORTH OSSETIA, INGUSHETIA, CHECHNYA)
- ROMANIA
- SRI LANKA
- Islamic fundamentalist (IRAN, EGYPT, TUNISIA, ALGERIA)
- TURKEY
- ZAIRE

CIREA also discussed some aspects concerning other third countries, albeit in less detail than those referred to above, namely:

- CUBA
- BURUNDI
- MAURITANIA
- RWANDA
- SIERRA LEONE
- Albanians from KOSOVO.

Those discussions were generally held in the light of Member States' replies to a questionnaire on the country or region concerned. The following in particular were taken into account:

- statistics (asylum applications and rates of recognition);
- classification of asylum applications (profile of the applicant, such as ethnic origin or religion);
- reasons given;
- itineraries followed since leaving the country of origin;
- evaluation of the application having regard to the Geneva Convention (method of analysing asylum applications; the concept of internal asylum; processing of specific cases);
- the current situation in the country of origin;
- the practice of asylum-seekers being assessed by the Member State concerned, and
- the measures taken in the event of refugee status not being recognized.

In some cases Member States were able to examine the situation in the light of joint reports prepared initially by the Heads of Mission of the Member States in the third State in question and finally approved by the CFSP bodies. Those reports made it possible to take into account an overall evaluation in situ, insofar as that had a bearing on asylum. ⁽¹⁾

The Office of the High Commissioner for Refugees systematically submitted an information document on the situation in those third countries, putting forward the salient points for CIREA. Those documents were prepared on the basis of public information available on the matter.

⁽¹⁾ Joint reports on the following were prepared in 1994 and 1995: ZAIRE, ALBANIA, BULGARIA, TURKEY, SRI LANKA, CHINA, ANGOLA and NIGERIA.

CIREA also benefited from the input of on-the-spot mission reports from one or other Member State. Those reports took into account the major principles governing the organization of the country and the impact of the situation on people living in it (see III(b)).

Lastly, CIREA received reports prepared by non-governmental organizations sent to it on the initiative of those organizations.

(b) Joint missions to the countries of origin of asylum-seekers

In 1995 CIREA looked at the possibility of joint missions, with the participation of several Member States, to the countries of origin of asylum-seekers. Such missions should also make possible a clearer identification of the situation obtaining on the spot, taking into account certain technical or general aspects which were difficult to pinpoint from a distance and knowledge of which would provide a better evaluation of asylum applications. CIREA and the Steering Group did not have the opportunity to adopt a definitive position on the matter.

As an alternative, it was agreed that each Member State would undertake to inform the other Member States of the outcome of missions it had carried out in any third country insofar as they related to asylum. Furthermore, before the beginning of each mission, the Member State concerned could invite other Member States to join the mission, or collate the questions or points of view put forward in CIREA by the other Member States, so that they could be taken into account during the mission. It was accordingly agreed to enter an item on the agenda for each CIREA meeting concerning missions carried out or to be carried out by the Member States in the countries of origin of asylum-seekers.

In 1995 CIREA received reports on missions to Sri Lanka, Zaire and Ethiopia.

(c) Exchange of information on asylum

At the beginning of each meeting the members of CIREA exchanged oral and written information on internal aspects or developments. That exercise focused inter alia on the following aspects:

- legislative or administrative changes regarding asylum made or under examination in the Member States. It should be noted that a fairly large number of Member States have amended their domestic legislation on asylum in several areas (notably NL/EL/E/DK/P). Those amendments, further to those initiated in 1993 by several Member States, have on occasion involved considerable changes to the rules on asylum. In other cases the changes made relate to specific questions such as aid for voluntary repatriation, residence permits to be issued to asylum-seekers or the reception arrangements for aliens at reception centres.
- the case-law applicable in some Member States.
- the regions or countries of origin which have, over the months prior to each meeting, given rise to the largest number of asylum-seekers in each Member State.
- national procedures applicable to asylum-seekers arriving at the frontier.
- any readmission agreements concluded by each Member State with third States.
- measures taken in respect of visas, where that can affect asylum.
- exchange of views on the repatriation of rejected asylum-seekers.
- exchange of views on the legislation applicable in the Member States to the possibility of granting residence permits to asylum-seekers who do not satisfy the conditions laid down in the 1951 Convention.

- applications for asylum in Member States by unaccompanied minors: frequency and proposed solutions.
- legal aid for asylum-seekers.
- education for the children of asylum-seekers.

(d) Representations to be made to the authorities of third States

In line with the initiatives begun in 1993, CIREA collated the necessary information to enable the competent authorities to make representations to the Chinese authorities as a result of the increase in the number of asylum-seekers of Chinese origin who had been rejected and remained illegally in the territory of one or other Member State. That information had been forwarded to the CFSP with a view to specific representations in situ.

CIREA carried out a comparable exercise with regard to Vietnamese asylum-seekers, with a view to preparing representations to the Vietnamese authorities.

(e) Examination of the Member States' different rates of recognition of refugee status

CIREA examined the Member States' different rates of recognition of refugee status. Member States were able to examine in detail the grounds justifying, in certain instances, the different rates of recognition from one Member State to another in respect of asylum-seekers from the same third country or region of origin. This exercise was also carried out in the context of examining the situation in source third countries of asylum-seekers.

(f) Statistics

CIREA prepared a fairly large number of statistics on asylum-seekers who had lodged an application in one of the Member States and on the rate of recognition accepted by them. Those data were for 1994 and 1995. They were prepared by geographical region (whole world, Europe, Asia, Africa, America and Oceania) in respect of those source third countries of the largest number seeking asylum in the European Union.

Those statistics are a way of informing Member States rapidly on asylum trends, in particular the situation with regard to the number of applications for asylum submitted in the Member States. It is not their objective to provide final statistical data for each Member State.

(g) More detailed examination of matters relating to the common position on the harmonized application of the definition of "refugee" within the meaning of Article 1 of the Geneva Convention

In 1994 and 1995 the Asylum Working Party examined a draft common position on the harmonized application of "refugee" within the meaning of Article 1 of the Geneva Convention. ⁽¹⁾

(¹) This instrument has since been adopted by the Council (OJ No L 63, 13.3.1996, p. 2).

In order to provide greater support for the proceedings of the Asylum Working Party, CIREA examined several situations:

- the processing of applications for asylum lodged by persons originating in a zone of civil war or of violent or widespread internal conflict. In particular, the question was discussed whether fear of persecution would be justified, in such instances, by one of the grounds set out in Article 1A of the Geneva Convention. For that purpose CIREA took into account the situation of certain third countries undergoing internal upheaval (Angola, Somalia and Liberia);
- the application of Article 1C(5) of the Geneva Convention to Romanians with refugee status;
- Member States' practice as regards the application of Article 1F of the Geneva Convention and the list of international instruments likely to be covered by that Article.

(h) Guidelines for the dissemination and confidentiality of joint reports ⁽¹⁾

During 1994 the Council laid down guidelines for the dissemination and confidentiality of joint reports on the situation in certain third countries. In particular, it was agreed that:

- national authorities responsible for asylum matters and questions relating to aliens could use those reports amongst the information at their disposal;
- depending on national procedures, those reports might be brought to the knowledge of the parties involved in appeal proceedings against a decision by the authorities responsible for matters relating to asylum or aliens.

⁽¹⁾ OJ No C 274, 19.9.1996, p. 43.

(i) **Preparatory specialist meetings of CIREA on countries of origin**

CIREA began discussing the desirability of examining the situation of certain third States of particular importance, only to some Member States. That initiative derived from the importance which the Member States attach to such an evaluation in CIREA. Such meetings would be composed by those Member States which wanted them and felt a pressing need for them to be held. CIREA had not yet completed its discussions on these matters at the end of 1995.

(j) **Compilation on asylum**

CIREA updated the compilation of texts on European practice with respect to asylum. It contains the most important acts and other texts on asylum adopted by Member States before and since entry into force of the Treaty on European Union.

(k) **Implementation of cooperation between the CDR/UNHCR and CIREA**

The ministerial decision establishing CIREA stipulates that, in the framework of the exchange of information to be established between the Member States with regard to asylum, account should be taken of the data stored by the Office of the United Nations High Commissioner for Refugees. It was further provided that CIREA should suggest that any cooperation deemed worthwhile in the matter should be introduced.

Against this background, CIREA discussed the desirability of setting up a system giving Member States access to the data stored by the Centre for Documentation on Refugees (CDR) of the UNHCR by means of a database to be installed in the General Secretariat of the Council.

During the discussions on this point the idea was put forward of considering the possibility of establishing a system of information exchange on an electronic basis. Each Member State would introduce into the electronic system aspects on which it wanted a reply from the other Member States. That message would automatically be disseminated to all members of CIREA simultaneously. Each Member State would endeavour to give the desired reply within the time limit set by the requesting Member State. CIREA was unable to adopt a final position on this question by the end of 1995.

Activity report
on the
Centre for Information, Discussion and
Exchange on Asylum (CIREA)
for 1996

During the course of 1996 the Centre for Information, Discussion and Exchange on Asylum (CIREA) met eight times on:

16 January
26 February
3 May
2 and 3 July
3 September
30 September
28 October
5 December.

Two types of work were put in hand within CIREA: on the one hand, the pursuit of its mandate in the matter of exchange of information, and on the other hand, reflection on CIREA's working methods.

In addition, in the context of the Transatlantic Dialogue, a meeting between experts from CIREA and the United States of America was set up to exchange information on asylum.

I. EXCHANGE OF INFORMATION

1. Legislation, regulations, jurisprudence of the Member States in asylum matters

Belgium, Spain, Ireland, Luxembourg and the United Kingdom informed CIREA of modifications to their legislation which came into force during 1996, in relation to which commentaries or copies of the new texts have been circulated:

Belgium: Laws of 10 July 1996 and 15 July 1996 amending the Law of 15 December 1980 on access to the territory, residence, establishment and expulsion of aliens, published in the "Moniteur belge" of 5 October 1996

Spain: Royal decree 155/96 of 2 February approving the executive regulation of Organic Law 7/1985

Ireland: Irish Refugee Act 1996 (26 June 1996)

Luxembourg: Law of 3 April 1996 regarding the creation of a procedure for the examination of an asylum application along with Grand Ducal implementing regulations of 22 April 1996

United Kingdom: Asylum and Immigration Act 1996 (24 July 1996).

Revisions are in hand in Denmark, Greece, the Netherlands and Sweden. Sweden sent two notes to CIREA – a summary of a report to the Swedish Government by the Parliamentary Refugee Policy Commission and a summary of Government Bill 1996/97:25 relating to Swedish migration policy in a global perspective.

In addition, at the initiative of the Slovak Mission to the European Union, CIREA received a copy of the Refugee Act adopted on 14 November 1995 by the Slovak Parliament.

Finally, Germany sent CIREA an analysis note on the findings of the Federal Constitutional Court of 14 May 1996 concerning the new asylum regulations, in which the Constitutional Court determined that the new provisions of asylum law relating to safe third countries, to safe countries of origin and to the procedure applicable at airports were compatible with the German Constitution.

2. Statistics

The General Secretariat of the Council drew up statistics relating to asylum applications for the second half of 1995, the first quarter of 1996 and the first half of 1996. These contain the data provided by Member States relating to applications and rates of recognition by geographical region and for the top 50 source third countries of asylum applications within the European Union.

Member States also received at each CIREA meeting the latest information available (provisional information) provided by each Member State in accordance with the model set in 1993.

3. Situation in countries of origin of asylum-seekers

(a) *Examination within CIREA*

CIREA examined the situation of the countries of former Yugoslavia and, in this context, that of Kosova, in particular, along with Iraq and Somalia. A questionnaire has been sent to Member States with a view to looking at the situation in China in the near future.

For each of the countries, the evaluation has concentrated on:

- the characteristics of applications made (profile of applicant, reasons invoked, means of leaving country of origin, itinerary followed, type and authenticity of documents presented);
- appraisal of applications in accordance with the Geneva Convention (general situation of country – including political situation and respect for human rights – and the practice followed in Member States as regards recognition of applications) and the basic procedure regarding their investigation;
- whether the exclusion or cessation clauses have been applied;
- for refusals, whether applicants can stay in a Member State's territory on the basis of some other reason, or be removed (repatriation to regions of the country of origin considered safe, expulsion to third countries, possible practical difficulties linked to expulsion).

CIREA invited the UNHCR to participate in the evaluation of the situation in these countries by providing its own analysis during the course of oral presentations by one of its experts on the countries examined. The UNHCR complemented these oral presentations with written reports to CIREA setting out the background to applications originating in these countries.

(b) CFSP joint reports

At the request of CIREA, the CFSP authorities provided in March 1996 an update of the joint report on Nigeria which had been prepared in February 1995, and in September 1996 a report on the situation of Afghan refugees in Pakistan.

CIREA also sought joint reports on Algeria and on Iraq, but it has not been possible to date to provide these reports having regard to the political situation prevailing at present in those countries.

(c) Missions undertaken by Member States in countries of origin

CIREA was informed of the results of each mission to a third country carried out by a Member State. In this way, CIREA received reports on the situation in Zaire, the Republic of Guinea, Iran, Armenia and North-Eastern and North-Western Somalia.

In 1995 the possibility of carrying out missions involving several Member States had been considered. This occurred in 1996, when one Member State announced its intention of carrying out a mission to Pakistan and was joined by three other Member States. This experience of a "joint" mission was regarded by each of the participants as extremely positive.

CIREA has also been informed of plans for missions to Bangladesh, to Sri Lanka, Bangladesh and Pakistan, and to Azerbaijan.

4. Other matters dealt with

Various one-off questions, arising either out of the international situation or at the request of individual Member States, have also been dealt with in CIREA, such as:

- the consequences of the signing of the Dayton/Paris accord for the recognition of refugee status for asylum applicants from Bosnia and Herzegovina;
- asylum seekers of Pakistani origin coming from Bangladesh (Beharis);
- the residence situation for stateless persons;
- conditions for expulsion to Côte d'Ivoire;
- the return of citizens of Zaire, of Southern Sudan, of Southern Lebanon, where the asylum application has been rejected.

CIREA decided to prepare a list of contact points of persons in Member States who deal with applications for asylum which is to be kept regularly up to date.

The General Secretariat of the Council has circulated a March 1996 update of the compilation of texts on European practice with respect to asylum.

... REVIEW OF CIREA'S WORKING METHODS

At the start of the Italian Presidency, the heads of organizations responsible within Member States for the recognition of refugee status met for the second time (the first meeting had taken place in June 1995 at the initiative of the French Presidency). In particular, the heads of these organizations, at the initiative of France, asked that an evaluation of the activities of CIREA be undertaken. At its meeting on 8 and 9 July 1996 Steering Group I decided that a review of CIREA's working methods and practices should be carried out.

This evaluation was put in hand under the Irish Presidency, during which it undertook a detailed examination of CIREA's working methods with a view to more effective utilization of the resources of national delegations, of the Commission and of the Council Secretariat. The basis for CIREA's work was a note from the Irish Presidency. This document contains a series of conclusions which are at present under examination by the K.4 Committee.

Other subjects for specific examination are, on the one hand, the creation of a computerized database and, on the other hand, improvement in the collection and organization of asylum statistics. Consideration of these two matters has started.

(a) Database

CIREA agreed not to follow up at this stage on the project to obtain information from UNHCR's database through CIREA; as this information can be obtained directly by each Member State.

At the meeting held within the framework of CIREA on 26 February 1996, the heads of bodies responsible in Member States for granting refugee status considered that the setting-up of a CIREA database might be useful for Member States, provided that information relevant to the use Member States wished to make of it were included. The General Secretariat of the Council was asked to produce a note on the technical feasibility of such a database and its cost, bearing in mind the need for rapid access to information and linguistic problems.

Delegations received a note from the Information Technology Division of the General Secretariat of the Council on the technical aspects of such a database, which has not yet been discussed within CIREA.

The question of which data to include in such a database is still under discussion.

(b) Statistics

CIREA, with a view to improving the existing statistical system, invited the representative of the Commission's statistical service (Statistical Office of the European Communities – EUROSTAT) to bring its experience into this discussion. The European Commission departments circulated to CIREA a working document setting out operations in this area. It was decided that CIREA would concentrate on setting out in detail its requirements with a view to possible assistance from the Commission's statistical service in gathering, presenting and analysing the statistical data on asylum circulated within the Centre.

MEETING BETWEEN EXPERTS FROM CIREA AND THE UNITED STATES OF AMERICA

In 1996, within the framework of the Transatlantic Dialogue, the decision was taken to establish links between experts on asylum from the United States of America and the European Union, on the basis laid down by COREPER of regular meetings to be held, for practical reasons, back-to-back with CIREA meetings.

The first meeting between experts from both CIREA and the United States was held at the end of 1996, just after the CIREA meeting of 5 December, and, being the first meeting, was chiefly devoted to an exchange of information on CIREA and US activities with respect to asylum.

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CORRIGENDUM TO "I/A" ITEM NOTE

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