

5654/98

LIMITE

CIREA 14

NOTE

from : the Presidency

to : CIREA

Subject: Confidentiality of the CIREA documents

1. Introduction

During the CIREA meeting of 20 January 1998 the Presidency undertook to provide for the information of the Asylum Working Group and K4 a summary of CIREA's conclusions on the handling of public and confidential documents. This note sets out these conclusions.

2. Principles to establish the public or confidential nature of documents

- i) It is for the Member State which passes on information to CIREA to decide whether the information is public or confidential and that in providing information to CIREA the Member State should indicate the public or confidential nature of the information.
- ii) The giving of the confidential information concerned directly to CIREA implicitly grants consent for internal government use.
- iii) Pursuant to the Council regulations regarding the confidentiality of documents (or other specification), information should not be considered as confidential if it was previously, for example, published in the Member State which provided it by transmitting information to Parliament or passing it on to a court or when it is information such as that in the HCNUR "Refworld" CD-Rom, information accessible through other technical devices such as the Internet or information published, for example, by a non-governmental organisation like Amnesty International. Unless otherwise noted as restricted by the issuing Member State, access to confidential

information for internal Government use is at the discretion of the receiving Member State.

- iv) Information concerning conditions in a source country of asylum should as often as possible be public information to enable authorities dealing with asylum to refer to the information within the framework of decision making or proceedings before the courts.
- v) Information should not be made public if its public disclosure is likely to encourage illegitimate, false or unfounded applications for asylum and as a consequence be prejudicial to the asylum determination process and the institution of asylum.

3. Member States gave examples of information which would normally be regarded as Confidential. These included:

- answers given by the Member States to the questionnaires regarding the situation of some source countries or other subjects, along with the analysis of these answers;
- reports drawn up by the General Secretariat following the discussions on certain countries (such as Iraq, Somalia, etc);
- documents concerning important issues of national policy;
- administrative guidelines for the internal use of Member States, directives, lists of questions to be asked of asylum applicants;
- information of Member States regarding the source countries which are indicated as confidential. The Presidency notes that certain Member States advised that some of their national information regarding source countries is made public, which means that this general principle is not applicable in these circumstances;
- common reports (i.e. those which fall within the competencies of the third pillar) regarding the situation of certain third countries, in accordance with the specifications of circulation and confidentiality mentioned in the text adopted by the Council on 20 June 1994 (JOCE no. C274 of 19.9.96, pp.43);

- information regarding the return of applicants whose asylum requests have been rejected;
- any information regarding individual cases other than at 2.iii above;
- reports of missions in source countries considered to be confidential by the Member States conducting the mission;
- lists of names and addresses of the experts of the Member States on issues linked to asylum.

During the meeting of 19 and 20 February 1997, it was agreed that the UNHCR and other organisations (such as the International Organisation for Migration (IOM)), asked to participate in a meeting concerning a third country, would be provided with a copy of the final report which will be drawn up by the General Secretariat, subject to the report being strictly limited to the internal use of the organisation and a prohibition of explicit mention of the opinions expressed by any of the Member States during the meeting. Furthermore, these organisations will have the opportunity to make observations regarding the parts of the draft report which show their contribution to the discussion.

4. Public information shall normally consist of:

- legislative texts;
- decisions of the court (made anonymous as appropriate);
- documents describing asylum procedures;
- information on reception facilities;
- official letters to Parliament, answers to Parliamentary questions, etc;
- annual reports of the CIREA activities.