

Opinion of the Committee of the Regions on 'The future common European asylum system'

(2008/C 172/05)

THE COMMITTEE OF THE REGIONS

- underlines that local and regional authorities will be the first to implement European legislation on a common European asylum system and notes that a common asylum system which requires each Member State to take responsibility in a spirit of mutual support will facilitate the work of local and regional authorities;
- recommends that a consultation mechanism be set up, where necessary, at national level bringing together central, regional and local institutions with a view to achieving integrated, multilevel governance;
- recommends that a European regulation be drawn up governing the following aspects between Member States: mutual recognition of protection once granted; procedures for transfer and uniform status covering refugees and beneficiaries of secondary protection;
- considers that extending the provisions of Directive 2003/109/EC to those receiving a form of international protection is an essential step in averting the risk of discrimination, and constitutes an instrument for completing the Community process of harmonisation in the field of asylum;
- recommends providing common guidelines on how, with the broad involvement of local bodies, to help asylum seekers and refugees to gain access to social, health and housing services, and introducing programmes to involve them in the local community; laying down clear and specific standards for: recognising educational qualifications; vocational retraining; and skills certification; providing funding to support labour and/or management potentialities among refugees;
- considers that fostering successful integration of refugees requires that they feel they have a part to play in the neighbourhoods, towns, Member State and European Union in which they live. Involvement in local and regional political life, based on active and passive voting rights in local elections, represents a powerful and real value, going beyond the purely symbolic;
- recommends provision of funding and tendering procedures to develop national and local operators' skills. There should be a special emphasis on psychosocial wellbeing, and the identification and handling of vulnerable cases;

Rapporteur: Mr Antonio SANTARELLA (IT/UEN-AE), Mayor of Candela

Reference documents

Communication from the Commission: Green Paper on the future Common European Asylum System

COM(2007) 301 final

Proposal for a Council Directive amending Directive 2003/109/EC to extend its scope to beneficiaries of international protection

COM(2007) 298 final

Policy recommendations

THE COMMITTEE OF THE REGIONS

The role of local and regional authorities

1. underlines that local and regional authorities will be the first to implement European legislation on a common European asylum system. Every day they receive mixed flows of migrants, among whom are asylum seekers, and must often provide medical and psychological help to people who have suffered physical and mental abuse, including torture. These services, not normally provided by local and regional authorities or their agencies, require special support if suitable skills and structures are to be implemented;

2. notes that a common asylum system which requires each Member State to take responsibility in a spirit of mutual support will facilitate the work of local and regional authorities. At the moment, local and regional authorities bear too much responsibility in certain Member States, partly because a common asylum system does not exist;

3. draws attention to the fact that, in the absence of reception and integration projects and stable employment, even recognised asylum seekers may fall victim to exploitation and crime, creating a possible source of problems in terms of security and social cohesion. The risk and likelihood of falling into a situation of exploitation or crime can be lessened if it is possible to take paid work during the asylum application period;

4. recommends that a system of networks of local authorities be set up in each Member State, to integrate refugees in an informed way, by means of local projects promoted by these authorities. In those Member States which have tried such service networks, working through local commissions, the processing of asylum requests has been accelerated and the living conditions of asylum seekers have been improved. This has facilitated their integration into local host communities, with significant benefits for security and quality of life;

5. recommends, therefore, that the various European, national, regional and local resources complement one another and provide real support for such service networks in all the Member States, in order to deal with the problems of integrating asylum seekers and refugees;

6. recommends that a consultation mechanism be set up, where necessary, at national level bringing together central,

regional and local institutions with a view to achieving integrated, multilevel governance;

7. recommends that participation in the network system should be voluntary, and advocates partnerships to share decision-making and responsibilities among the various institutional, public and private actors at local level, enabling reception and integration measures to be planned on the basis of existing local potential. These partnerships can help build up know-how and, consequently, increase the informed involvement of actors thus far unconnected with the asylum sector, or reluctant to assume responsibilities in this sector;

8. emphasises that such a system can prompt institutions, businesses, trade unions, third sector associations, training establishments, universities and, of course, local and regional authorities to find their place within the system. This would bring the issue to the attention of society as a whole, enabling each stakeholder to play their own role, which would naturally help to alleviate or remove any tensions;

Legislative instruments

Processing of asylum applications

9. considers that in applying the procedure for granting international protection, the Union faces two separate demands, which should not be managed in opposition to each other:

— effective protection for asylum seekers, and;

— control of external borders;

10. proposes that the procedures for identification, admission onto EU territory, and access to the asylum procedure should be harmonised at EU level;

11. calls for common procedures to be designed and tested for identifying migrants, which can be applied within clear time limits with specific and clear measures, in compliance with fundamental human rights and human dignity;

12. regarding the procedures for examining applications for international protection, holds it to be crucial that common instruments are identified that can guarantee uniform assessment in each of the Member States, enabling the provisions of European directives (2005/85/EC in particular) to be effectively put into practice;

13. also proposes regular opportunities for training, refresher courses and monitoring, as well as forums for bodies responsible for examining applications for international protection to meet and exchange and compare experiences;

14. recommends that a programme of training and refresher courses be prepared for border police forces and border guard units;

15. recommends the provision of, and support for, help and guidance centres for foreign citizens seeking international protection at border entry points (airports, sea ports, border posts) and arrival areas;

Reception conditions for asylum seekers

16. feels that, concerning the detention of asylum seekers, it is worth restating that they may not be held solely for the purposes of examining their cases. Any restrictions on the freedom of movement must not extend beyond the time required for identification procedures, and these should be further harmonised;

17. calls for the European Union to adopt a charter governing the status of applicants for international protection whose freedom of movement is curtailed;

18. believes that secondary movements within the European Union are chiefly determined by the economic situation of Member States and the approach taken to applicants for asylum;

19. therefore considers it necessary to carry out research compiling experiences in all the Member States over recent years, particularly concerning entry into employment, housing and society;

20. intends to supplement the present opinion with an appendix setting out best practices in these areas, that have been introduced in cooperation with European local and regional authorities;

21. with regard to the services provided by local and regional authorities, urges a shift away from the 'material assistance' concept towards that of 'integrated reception' (including personal assistance and guidance and steps towards socio-economic integration);

Granting of protection

22. recalls that the concept of international protection is still closely tied to the strict definition of refugee status, as enshrined in Article 1 of the Geneva Convention, whereas the international scene has been transformed since the 1950s, as has the profile of those seeking protection. Increasingly, they are not fleeing personal persecution but situations of widespread violence and armed conflict, and environmental and living conditions play an increasingly important part;

23. notes that, in the light of the above, the provisions of Directive No 2004/83/EC describing and harmonising the subsidiary protection to be granted to those who do not qualify for refugee status under the terms of the Geneva Convention are to be welcomed. This protection should be seen as complementary to refugee status, and not as an inferior or second-class form of it;

24. therefore appreciates the efforts made by the European Commission to define the position of beneficiaries of international protection, incorporating and expanding upon the provisions of the Geneva Convention;

25. emphasises that this reading of Community provisions enables two forms of international protection (refugee and subsidiary) to be outlined, broadening the types of beneficiary of the protection;

26. insists that both types of international protection granted by one Member State should be recognised in all the other EU Member States;

27. recommends that allowance be made for responsibility to be transferred between Member States when a beneficiary of international protection transfers their place of residence from one Member State to another, in this way guaranteeing freedom of movement (albeit directly controlled and monitored) within EU territory;

28. considers that the European Union must adopt instruments (legislative and operational) enabling it to intervene in cases where removal from EU territory is not possible;

Cross-cutting issues

Appropriate response to situations of vulnerability

29. considers that individuals should be deemed to be vulnerable on the basis of their specific circumstances and experiences; this does not apply to certain types of individual necessarily requiring specific reception and care measures (unaccompanied minors, women who are travelling with or following husbands or family, or are themselves refugees, people with physical or mental disabilities), whose particular situation has to be taken into account accordingly in procedures and decision-making practices (e.g. respect for the right to a private and family life or family reunification);

30. draws attention to the fact that — especially where victims of torture are concerned — support and rehabilitation measures may be inadequate when they:

- are not bolstered by specific actions aimed at ensuring reception, protection and socio-economic integration;
- are implemented by specific structures, in the absence of dialogue with national and local welfare bodies, or with other programmes and services also aimed at asylum seekers and refugees;

31. therefore recommends that a broad-ranging and structured debate, designed to outline common standards for identifying individual cases of vulnerability, form part of the process of building a common asylum system;

32. proposes that the instruments to be devised by the European Union to support the work of the various players involved in the asylum system (guidelines, manuals, training programmes, etc.) should include specific guidelines and indicators to help detect cases of vulnerability and facilitate their handling;

33. considers it essential, in order to identify and provide care for vulnerable individuals, to boost the capacities of local welfare services. To this end, it recommends that the European Union takes steps either by funding specific capacity-building programmes, or by promoting training and refresher courses to the Member States;

Integration

34. underlines that integration is a process whose primary objective is for refugees to attain a degree of autonomy. The integration process takes place through a number of parallel insertion levels (employment, housing, social) and following different thresholds (local knowledge, access to services, participation);

35. considers it essential, in recording the difficulties that may be experienced by second-generation migrants in different parts of Europe vis-à-vis integration policies, that refugees (in this particular case) should not always be seen as 'foreigners' or 'guests', and that, based on recognition of and respect for the values and the law of the host country, there should be no move to distance them from their cultures of origin;

36. considers that fostering successful integration of refugees requires that they feel they have a part to play in the neighbourhoods, towns, Member State and European Union in which they live. Involvement in local and regional political life, based on active and passive voting rights in local elections, represents a powerful and real value, going beyond the purely symbolic;

37. believes that developing this feeling of belonging starts at school, and that reception and integration programmes for refugee pupils and students can be developed as an integral part of all school and university systems in the Member States;

38. recommends:

- providing common guidelines on how, with the broad involvement of local bodies, to help asylum seekers and refugees to gain access to social, health and housing services, and introducing programmes to involve them in the local community,

- laying down clear and specific standards for: recognising educational qualifications; vocational retraining; and skills certification,

- providing funding to support labour and/or management potentialities among refugees, in part by fostering cooperation with pre-existing local businesses;

Implementation — accompanying measures

39. proposes that rules be laid down governing common procedures for identifying third country citizens applying for international protection;

40. proposes that structured training/refresher courses be designed for: border guards and police forces; NGOs; bodies responsible for examining applications for asylum; local health and welfare services; local administrations and directors of national institutions;

41. suggests that opportunities to meet and swap experiences be arranged, involving a full-scale European conference on asylum, regional conferences and a staff exchange programme — a kind of *Erasmus* for asylum officials;

42. calls for better coordination between the Member States on certain asylum questions;

43. recommends that a European regulation be drawn up governing the following aspects between Member States: mutual recognition of protection once granted; procedures for transfer and uniform status covering refugees and beneficiaries of secondary protection;

44. considers it essential to broaden and develop means of consulting the various stakeholders — ranging from national institutions to local administrations, from the police to NGOs — on the implementation of a common asylum system;

45. recommends provision of funding and tendering procedures to develop national and local operators' skills. There should be a special emphasis on psychosocial wellbeing, and the identification and handling of vulnerable cases;

Solidarity and burden-sharing

Financial solidarity

46. welcomes the Framework programme on solidarity and management of migration flows for the period 2007-2013 presented by the European Commission: this is a multiannual programme based on four pillars and the matching funds providing an integrated approach to the various issues arising from migration. It expresses particular satisfaction at the new version of the European Refugee Fund (ERF) for 2008-2013, and the European Return Fund for refugees who meet the requirements laid down by local authorities for asylum seekers and refugees;

47. believes that harmonisation of procedural standards for reception, integration and the involvement of local communities are the primary deterrent to secondary movement of applicants or beneficiaries of international protection within EU territory;

48. underlines that the main step to be made towards achieving such harmonisation is to build of an effective European asylum system. This would be the main instrument for bringing about a full sharing of responsibility and competences between all EU Member States;

49. recalls that attaining this objective is costly in terms of economic, human and time resources, but considers this to be necessary in order to devise an intervention model which can overcome the difficulties encountered across Europe in managing migration flows;

50. emphasises that it is essential, if the above-mentioned actions are to be carried out and if they are to have an impact in the individual Member States, the resources earmarked for European asylum policies should contain amounts to be managed at Community level and amounts to be channelled to the Member States;

51. therefore recommends that Member States where the number of requests for asylum are increasing or stable, together with Member States with external borders should receive allocations commensurate with the tasks to be performed. Implementing a common asylum system will require substantial economic resources and, especially for the first five years, it will be necessary to derogate from the rule that European funding should be complementary to national funding;

52. in this regard, calls for careful, well-organised programming of European financial resources, based on funding lines that can be put to effective use, especially for training, staff exchanges and the involvement of local partners in the European consultation process;

53. by the same token, recommends that sufficient resources be provided to assist the more recent Member States and those with less experience of handling migration, by means of additional funds to make up for possible structural shortcomings at national level. Against such a backdrop, there would be little point in considering resettlement programmes within the European Union;

Extending the scope of Directive 2003/109/EC to beneficiaries of international protection

54. warmly welcomes the Proposal for a Council Directive to amend the previous Directive 2003/109/EC to extend its scope to beneficiaries of international protection (refugees or beneficiaries of secondary protection);

55. considers that extending the provisions of Directive 2003/109/EC to those receiving a form of international protection is an essential step in averting the risk of discrimination, and constitutes an instrument for completing the Community process of harmonisation in the field of asylum;

56. believes it vital to ensure that beneficiaries of international protection can obtain long-term resident status in the same Member State that has granted protection, and are entitled to reside in a second Member State;

57. emphasises that granting a form of international protection should be seen as an essential element when assessing the consequences of possible removal of long-term resident status;

58. therefore welcomes the measures contained in the proposal for a directive upholding the principle of non-refoulement (the principle whereby individuals may not be forcibly repatriated to countries where their lives or freedom would be in danger) and ensuring its full implementation in practice, in keeping with Community and international law. Where more far-reaching limitations regarding expulsion and deportation are envisaged, these are to be rejected;

59. also in accordance with the principle of non-refoulement, considers it essential that the authorities of a second Member State must be made fully aware of the fact that a long-term resident — seeking to reside on its territory — has previously obtained international protection in the other Member State. This provision is a vital guarantee of continuity of protection in the event that the need for international protection persists;

60. considers that, when the national authorities responsible for granting or withdrawing international protection are not the same as those for granting or withdrawing long-term resident status, it is crucial that the 'protection background' must be fully taken into account;

61. expresses its satisfaction at the provisions ensuring the full application of the conditions for exercising the right of residence in a second Member State, also covering the beneficiaries of international protection with long-term resident status;

62. lastly, recommends that uniform rules at last be adopted at Community level regarding the granting of authorisation to refugees and beneficiaries of subsidiary protection to reside in a second Member State (for employment or family reasons) and, above all, in order to allow the responsibility for the international protection granted to be transferred from one Member State to another.

Brussels, 9 April 2008.

The President
of the Committee of the Regions
Luc VAN DEN BRANDE
