

Brussels, 3 December 2007

The Commission regrets delay in transposition of European rules on procedures for granting asylum

On 1 December 2007, the deadline for transposition of the Asylum Procedures Directive (Council Directive 2005/85/EC of 1 December 2005, on minimum standards on procedures in Member States for granting and withdrawing refugee status) expired. Until today, only 6 Member States (Bulgaria, Germany, Luxemburg, Austria, Romania and the United Kingdom) have communicated their national measures informing that they transpose fully the Directive. 4 Member States (Belgium, Estonia, France and Lithuania) have notified partial transposition.

This Directive was the last in a series of legislative instruments adopted in the first stage of harmonisation of asylum laws and policies of Member States.

Vice President Franco Frattini, Commissioner for Justice, Freedom and Security, said: *"The delay in implementing the Directive sends a worrying message. The obligatory provisions of the Directive have brought to the EU asylum acquis a number of procedural guarantees and rights, which are of paramount importance for genuine refugees seeking protection in Member States. These guarantees shall now be recognised, implemented and, if necessary, enforced by courts within the national asylum systems. This should have already become an every day reality for asylum practitioners in Member States. After the delays in transposition of the Reception Conditions Directive and the Qualification Directive, this delay is indeed disappointing, particularly because it occurs at the time when there is a strong political will to complete the second phase of the Common European Asylum System"*.

In line with the conclusions of the Tampere European Council, the Directive sets out common minimum standards for asylum procedures in Member States. By bringing into force the Directive, the European Union has undertaken an unprecedented attempt to create a true Common European Procedural Asylum Law aiming at ensuring access to protection for refugees under equivalent conditions across the EU. Given the diverse national procedural rules governing asylum procedures in Member States, this has appeared to be a challenging task.

While the Directive leaves sufficient space for Member States to preserve their national particularities and to speed up the examination of ill-founded asylum applications, it does contain important safeguards for asylum applicants. These include but are not limited to the opportunity of a personal interview, comprehensive information about the procedure at the start of the process, a motivated decision on the asylum claim, and the Member States' duty to meet special needs of unaccompanied children.

The Directive provides that all asylum decisions in the systems of 26 participating Member States shall be subject to judicial scrutiny. It also enhances the capacity of Member States' asylum authorities to decide quickly on the applications of persons who legitimately seek refugee protection in the EU.

The proper implementation of the obligatory provisions of the Directive is a vital precondition for moving to a common asylum procedure, as described in the Tampere Conclusions and reiterated in the Hague Programme. The Commission, therefore, will take appropriate procedural steps, according to the power conferred to it by Article 226 of the Treaty establishing the European Community, with regard to those Member States who have not yet notified their complete implementing measures.

To find out more about Vice President Frattini's work please visit his website:
http://www.ec.europa.eu/commission_barroso/frattini/index_en.htm