

ECRE DOCUMENTATION SERVICE

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Policy Developments

UN

New UN Envoy for Migration and Development appointed

On 23 January 2006 Mr. Peter Sutherland was appointed Secretary-General Special Representative on Migration and Development. Mr Sutherland is a former Attorney General of Ireland, former EU Commissioner and former Director-General of the General Agreement on Tariffs and Trade and the World Trade Organization and is currently Chairman of BP plc. He will assist in the preparation of high-level dialogue on international migration and development, to be held by the General Assembly in September 2006.

http://www.un.org/News/ossg/hilites/hilites_arch_view.asp?HighID=482

UNHCR

NGO Statement to the High Commissioner's Forum

The High Commissioner's Forum held its last meeting within UNHCR's Convention Plus initiative on 17 November 2005. Launched in 2003, one of the main themes of Convention Plus was the strategic use of resettlement, and in a statement to the Forum, NGOs underlined its importance as a durable solution, both for individuals at particular risk and more generally.

<http://www.unhcr.ch/cgi-bin/texis/vtx/doclist?page=protect&id=4289abbb2>

For the NGO Statement see: <http://www.unhcr.ch/cgi-bin/texis/vtx/protect/opendoc.pdf?tbl=PROTECTION&id=437da01b2>

Call on leaders at Euro-Med Summit to strengthen refugee protection commitments

On 24 November 2005, UNHCR called on participants to strengthen commitments to the principles of refugee protection and to refer to the principles of "international refugee protection" in the Partnership's work plan. UNHCR stated that the principle of non-refoulement must be respected and that states need to

ensure that refugees and others in need of international protection "are not included in any returns of irregular migrants to their countries of origin".

Sources:

<http://www.unhcr.ch/cgi-bin/texis/vtx/news/opendoc.htm?tbl=NEWS&id=438748154>; <http://www.un.org/apps/news/story.asp?NewsID=16697&Cr=&Cr1>

UNHCR takes up fight against intolerance

The High Commissioner for Refugees, António Guterres, emphasised on 8 December 2005, the problem of increasing intolerance which he sees as one of the most serious threats to refugee's rights today. According to Guterres, intolerance causes fear in people and in societies. Fear causes people to be more restrictive in offering refugees assistance. Guterres criticised the media for indulging this intolerance and connecting the concept of "refugee" and "terrorism". UNHCR is starting a campaign against intolerance in 2006.

http://www.unhcr.se/se/News/pdf/December_2005.pdf

Judy Cheng-Hopkins and Erika Feller named Assistant High Commissioners

On 13 January 2006 Antonio Guterres, the UN High Commissioner for Refugees, announced the appointment of two new Assistant High Commissioners to oversee the agency's field operations and its international protection work for millions of refugees and others of concern. Ms Judy Cheng-Hopkins was named assistant High Commissioner for Operations, while Ms Erika Feller was appointed to the new post of Assistant High Commissioner for Protection.

Source: <http://www.unhcr.org/cgi-bin/texis/vtx/news/opendoc.htm?tbl=NEWS&page=home&id=43c7a7844>

Resettlement opportunities could help resolve plight of Bhutanese

On 13 January 2006, UNHCR issued a briefing note stating that given the current situation in Nepal, resettlement opportunities for some Bhutanese

refugees who have been in the country for the last 15 years, should now be seized. Some 105,000 Bhutanese refugees have been living in seven camps in the east of Nepal since the early 1990s, making it one of the most protracted refugee situations in Asia. Some Western countries have recently expressed a strong interest in resettling some of these refugees. UNHCR says that resettlement along with some refugee return movement to Bhutan, could pave the way to resolving this longstanding problem situation. <http://www.unhcr.org/cgi-bin/txis/vtx/news/pendoc.htm?tbl=NEWS&page=home&id=43c7a5505>

Donors pledge around 30 % of UNHCR's total 2006 budget

At UNHCR's annual pledging conference on 28 November 2005, a total of 42 states pledged \$354.3 million, around 30% of UNHCR's total 2006 budget. The decrease in contributions pledged in advance was mainly due to exchange rate fluctuations and the unprecedented number of major natural disasters in 2005, which may have put a strain on donors' humanitarian budgets. <http://www.unhcr.org/cgi-bin/txis/vtx/news/pendoc.htm?tbl=NEWS&page=home&id=438c397d2c>
To access the tables on pledges see: <http://www.unhcr.org/news/051129table.pdf>

Record refugee returns to Afghanistan

In a press statement issued by UNHCR on 31 January 2006, it was announced that since the start of its voluntary repatriation programme for Afghanistan in 2002, more than 3.5 million Afghans have returned, more than 2.7 million from Pakistan and 800,000 from Iran. In 2005 alone, 500,000 Afghans returned voluntarily. However, there are still some 150,000 internally displaced persons in Afghanistan, the majority living in the south. <http://www.unhcr.org/cgi-bin/txis/vtx/news/pendoc.htm?tbl=NEWS&page=home&id=43df9a7e4>

Council of Europe

PACE Committee calls on Member States to favour fairness over speed in asylum procedures

In a statement adopted on 9 December 2005 the Committee on Migration, Refugees and Population of the Council of Europe Parliamentary Assembly (PACE) expressed its deep concern over the way in which accelerated asylum procedures are developing in Europe. The Committee called on Member States to reverse the tendency of favouring speed over fairness in asylum procedures, a concern previously highlighted in Parliamentary Assembly Resolution 1471 (2005) on accelerated asylum procedures in Council of Europe Member States.

<http://assembly.coe.int/ASP/Press/StopPressView.asp?CPID=1713>

For Resolution 1471 (2005) see: <http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta05/ERES1471.htm>

New trends and challenges for Euro-Mediterranean migration policies

A report published on 13 December 2005 by the PACE Committee on Migration, Refugees and Population focuses on the increasing role of the Mediterranean as a transit region for irregular migration, operations to prevent or respond to irregular migration, closer economic integration and cooperation, political cooperation and dialogue between civil societies. The draft recommendations call on Member States of the Council of Europe, in close cooperation with governments of non-member Mediterranean countries, to frame their migration policies so that migration is perceived as a phenomenon and not as a problem. It also encourages closer cooperation between the different European and international organisations for an improved management of Mediterranean migration. Special attention should be given to migrants' participation in co-development projects, it says, and to the furthering of closer cooperation among higher education and research institutions, including the encouragement of student and teacher mobility. The report was further discussed at the

Parliamentary Assembly Standing Committee on 17 March 2006.

To access the full Report (Doc. 10763) see: <http://assembly.coe.int/Main.asp?link=/Documents/WorkingDocs/Doc05/EDOC10763.htm>

Draft Protocol on the avoidance of statelessness in relation to state succession

On 21 December 2005, the PACE Committee on Legal Affairs and Human Rights welcomed the draft Protocol on the avoidance of statelessness in relation to state succession which it regards as an essential instrument complementing the existing Conventions. It fully supports the objective of avoiding cases of statelessness by facilitating the acquisition of nationality. However, it regretted that the draft instrument, limited to cases relating to state succession, does not make it possible to resolve cases of statelessness existing prior to state successions. Moreover, it believes that certain provisions of the draft, as currently worded, could be improved so as to take account of the opinions previously expressed by the Parliamentary Assembly. The Committee therefore recommended the introduction of several amendments to the draft instrument.

To access the full Report (No 10770) see: <http://assembly.coe.int/Documents/WorkingDocs/Doc05/EDOC10770.htm>

To see the Draft Protocol (No 10646) see: <http://assembly.coe.int/Mainf.asp?link=/Documents/WorkingDocs/Doc05/EDOC10646.htm>

PACE recognises governments, member states and the Committee of Ministers failure to address human rights violations in the Chechen Republic

On 25 January 2006, the Parliamentary Assembly expressed its concern that a number of governments, member states and the Committee of Ministers of the Council of Europe have failed to address the ongoing serious human rights violations of Chechens, despite the fact that such violations still occur on a massive scale in the Chechen Republic and, in some cases, in neighbouring regions in a climate of impunity. The adopted resolution urges the Russian government to fully implement all recommendations made by the bodies and mechanisms of the Council of Europe, as

well as those of the UN. The resolution further states its dissatisfaction with the Committee of Ministers' lack of effective reaction, which it sees as undermining the credibility of the Council of Europe. The Parliamentary Assembly also adopted recommendations on the need for a re-launching of the Committee of Ministers' monitoring of the human rights situation in the Chechen Republic and invited the Committee to take 'specific action', whilst addressing appropriate recommendations to the government of the Russian Federation.

To access the Resolution 1479 (2006) see: <http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta06/ERES1479.htm>

To access the Recommendation 1733 (2006) see: <http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta06/EREC1733.htm>

To access the full report (Doc. 10774) by the Committee on Legal Affairs and Human Rights, published 21 December 2005 see: <http://assembly.coe.int/Documents/WorkingDocs/Doc05/EDOC10774.htm>

Motion on the situation of longstanding refugees and displaced persons in South East Europe

On 1 February 2006, the Parliamentary Assembly passed a motion expressing concern that ten years after the war in Bosnia and Herzegovina and Croatia, and six years after the conflict in Kosovo, too many refugees and internally displaced people still remain in the region. These are mainly the most vulnerable persons who remain in collective centers. They have been neglected in recent years as a result of a lack of local resources and humanitarian aid. The situation of displaced Roma remains a particular concern, especially in light of the many recently signed readmission agreements, which generally lack adequate funding for reintegration, notes the motion. The Parliamentary Assembly recommends that governments in the region implement the necessary conditions to solve the remaining obstacles to return or locally integrate refugees and displaced persons. In addition, it asks the international community to provide technical and financial support for local development projects in order to make return and local integration sustainable, while stating that it favours voluntary return projects over forcible returns.

To access the Motion (Doc. 10829) see: <http://assembly.coe.int/Main.asp?link=/Documents/WorkingDocs/Doc06/EDOC10829.htm>

For the full NGO see: <http://hrw.org/english/docs/2005/12/07/eu12152.htm>

NGOs

CCME conference: Enhancing Refugee Resettlement as an important tool for protecting refugees

In November 2005 at a conference organised by the Churches Commission for Migrants in Europe (CCME), representatives of churches and NGOs called on more EU Member States to engage in refugee resettlement programmes and to establish an EU-wide programme to increase the number currently offered resettlement by EU Member States. The participants of the conference will engage in fact-finding delegations to Finland, Kenya and North America between March-June 2006 to see how the different stages of the resettlement process work in practice. Presentations were made by UNHCR, the European Commission and the Dutch Council for Refugees, among others. In its presentation, ECRE called on existing resettlement countries to increase the number of people they resettle and more effectively fill their quotas, and urged other European countries to establish national resettlement programmes.

<http://www.cec-kek.org/English/enhancingresettlement.pdf>

For more information see: <http://www.cec-kek.org/pdf/CCMEResettNewsletterII.pdf>

NGOs call for Europeans to reject attempts to legitimise no-torture promises

Amnesty International, Human Rights Watch, and the International Commission of Jurists have called on Council of Europe Member States to flatly reject any proposals to establish standards for the use of diplomatic assurances in transfers of people where there is a risk of torture. The NGOs released a joint statement on 7 December 2005 to consider elaborating “minimum requirements” for reliance on diplomatic assurances. The NGOs warned that the initiative threatens the global ban on torture by creating a framework for the “acceptable” use of inherently unreliable and legally unenforceable diplomatic assurances.

Legal Developments

United Nations Treaty Monitoring Bodies

UN Human Rights Committee (HRC)

In its 85th session from 17 October – 3 November 2005 the HRC considered periodic reports from the following States: Canada, Italy, Paraguay and Brazil. The 86th session of the HRC will take place from 13-31 March 2006 where the Committee will consider the following State reports: Democratic Republic of Congo, Hong Kong-special administrative region-China, Norway and Saint Vincent and the Grenadines.

Concluding Observations

Italy (CCPR/C/ITA/CO/5)(Advanced Unedited Version)

The Committee considered the fifth periodic report of Italy, which was elaborated in conformity with the reporting guidelines. It positively noted the State party's position that the guarantees of the Covenant apply to the acts of Italian law enforcement officers who are stationed abroad and welcomed amendments to Article 51 of the Constitution, allowing for the adoption of special measures to ensure equal rights for men and women. However, the Committee remained concerned about a number of issues including the lack of a national human rights institution, the reported persistence of ill-treatment by police forces, abuses committed by members of law enforcement agencies against vulnerable groups, reported instances of hate speech, lack of procedural safeguards for foreigners in Lampedusa, overcrowding in Italian prisons and the State party's policy towards Roma.

Reports of abuses against vulnerable groups, in particular Roma, foreigners and Italians of foreign origin were particularly concerning in relation to information that Roma camps are regularly subjected to abusive police raids. The Committee called upon the State party to take immediate action to put an end to these abuses and to monitor, investigate and, when appropriate, prosecute police who ill-treat vulnerable groups. The HRC, while noting the initiatives adopted by the State

party to combat racial discrimination, remained concerned about reported instances of hate speech, including statements attributed to certain politicians, targeting foreign nationals, Arabs and Muslims, as well as the Roma. It called upon the State party to recall regularly and publicly that hate speech is prohibited under the law, and take prompt action to bring those responsible to justice.

The Committee was concerned by numerous allegations that foreigners held in the temporary stay and assistance center for foreigners (CPTA) of Lampedusa are not properly informed of their rights, do not have access to a lawyer and face collective expulsion. Notwithstanding the difficulties encountered by the Italian authorities due to the high number of migrants arriving in Lampedusa, the Committee remained concerned that some asylum seekers may have been denied the right to apply for asylum. The HRC was further concerned about the unsatisfactory detention conditions in the CPTA in terms of overcrowding, hygiene, food and medical care, and information that some migrants have undergone ill-treatment. The Committee urged the State party to take all necessary action to ensure the respect of its obligations under Article 7, 10 and 13 of the Covenant and recalled the absolute nature of the right of each person not to be expelled to a country where he/she may face torture or ill-treatment, and the obligation of the State party, consequently and in all circumstances, to ensure the situation of each migrant is processed individually. In this regard the Committee requested detailed information from the State party on readmission agreements concluded with other countries, in particular Libya, and the guarantees, if any, that such agreements contain safeguards regarding the rights of deported persons.

The Committee also noted with concern the State party's policy to consider Roma as "nomads" as well as its camp-based policy towards them. It expressed concern regarding reports that the Roma population is living in poor, unhygienic housing conditions on the margins of Italian society and noted that the Roma are

not protected as a minority in Italy, on the basis that they do not have a connection with a specific territory. It called upon the State party to reconsider its policy towards the Roma community, put an end to their residential segregation, and develop programmes to ensure their full participation in mainstream society at all levels.

UN Committee on the Elimination of Racial Discrimination (CERD)

The 68th session of CERD will be held from 20 February – 10 March 2006 where the Committee will consider the following State reports: Lithuania, South Africa, Guyana, Mexico, El Salvador, Guatemala, Uzbekistan, Botswana, Bosnia & Herzegovina, Israel, Mozambique, Ethiopia, Antigua & Barbuda, Congo, Papa New Guinea and Nicaragua.

UN Committee against Torture (CAT)

At its 35th session from 7-25 November 2005, CAT considered periodic reports from Austria, Bosnia and Herzegovina, Democratic Republic of Congo, Ecuador, France, Guyana, Sri Lanka and Nepal. The concluding observations are now available at <http://www.ohchr.org/english/bodies/cat/cats35.htm>

Concluding Observations

Austria (CAT/C/AUT/CO/3)

The Committee welcomed the submission of the third periodic report of Austria (CAT/C/34/Add.18), which was prepared in accordance with the Committee's guidelines though noting that the report was submitted with a three-year delay. It welcomed a number of positive developments in Austria including the ongoing efforts made by the State party to revise its legislation and adopt other necessary measures in order to ensure better protection of human rights and give effect to the Convention, including the adoption of the Criminal Procedure Reform Act and the amendments to the Code of Criminal Procedure. In particular, the Committee welcomed the new legislative provisions regarding the prohibition of the use of statements that were obtained by means of torture, coercion, deception or other inadmissible methods of interrogation, the new regulations on deportation procedures banning, *inter alia*, the use of any means blocking the respiratory system and providing for the medical examination of

an alien prior to flight, the new measures adopted to prevent ill-treatment of persons in police custody and the new initiatives in the Act taken to address and prevent trafficking in human beings. The Committee also welcomed the signature of the Optional Protocol to the Convention in September 2003 and the ratification of the Rome Statute of the International Criminal Court in 2001.

However, the Committee noted with concern that problems remained, *inter alia* with regard to refugee and immigrant communities. It was concerned at the reported attitudes of racism and intolerance exhibited towards foreign nationals by some law enforcement officials, such as cases of verbal abuse of Roma and people of African descent and urged the State party to continue to be vigilant in ensuring that the relevant existing legal and administrative measures are strictly observed and that training curricula and administrative directives constantly communicate to staff the message that verbal and physical ill-treatment will not be tolerated and will be sanctioned accordingly, and that racial motivations will aggravate offences. With respect to the Asylum Law which entered into force in May 2004, the Committee was concerned that this legislation could increase the risk of refugees being sent to supposedly safe third countries, that asylum seekers could be deported before a decision on their appeal has been taken, and that the possibility of presenting new evidence during the hearing is limited. Since the Constitutional Court has declared some of the Act's articles unconstitutional, the Committee requested the State party to provide information on the measures it intends to take to rectify this.

Regarding *non-refoulement*, the Committee regretted the reported extraditions carried out by the State party after receiving diplomatic assurances and requested the State party to provide detailed information on cases involving extradition or removal subject to the receipt of diplomatic assurances since 1999. The Committee criticized the limited guarantees for women asylum seekers to be interrogated by female officers and urged the State party to take the necessary measures to extend the guarantee that women asylum seekers will be interviewed by women officers at all instances. Additionally, it remained particularly concerned about

the inadequacy of the legal aid system and the Committee called upon the State party to implement the recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment to establish a fully fledged and properly funded system of legal aid. With regard to the detention of juveniles, the Committee was concerned at detention conditions, particularly that persons under 18 in places of detention are not always separated from adults and urged the State party to: develop alternative measures of detention for juveniles, ensure strict separation of juveniles and adults in places of detention and to take preventative measures to avoid physical ill-treatment of juvenile detainees.

Bosnia & Herzegovina (CAT/C/BIH/CO/1/CRP.1)(Advanced Unedited Version)

The Committee considered the initial report of Bosnia and Herzegovina while noting with concern that the report was overdue by more than 10 years. It positively took note of the State party's extensive ratification of the major international treaties protecting the human rights of its citizens including the Convention Against Torture. Furthermore, the Committee welcomed the State party's accession to or ratification of regional human rights instruments, among them the European Convention for the Protection of Human Rights and Fundamental Freedoms. Additionally, the Committee noted with satisfaction the ongoing efforts at the State level to reform its legislation to ensure better protection of human rights. Furthermore, it welcomed the establishment of the State court of Bosnia and Herzegovina, and the Special War Crimes Chamber of the State Court and the Special War Crimes Department of the Prosecutors Office that were inaugurated in March 2005.

While noting the developments towards multiethnic structures within authorities, the Committee remained concerned about alleged cases of ethnic bias or politically influenced police and judicial procedures. It was also concerned that the State party has not been able to prevent and investigate violent attacks against members of ethnic and other minorities, in particular returnees. The Committee urged the State party to ensure that judges, prosecutors, lawyers and other personnel are fully aware of the State party's

international obligations enshrined in the Convention, and that fair treatment prevails in all judicial procedures and that independence of the judiciary is fully guaranteed and safeguarded, in particular in procedures relating to the protection of minorities and returnees. In connection with the torture and ill treatment which occurred during the conflict of 1992- 1995 in the former Yugoslavia, the Committee was concerned at the reported failure by the State party to carry out prompt impartial investigations to prosecute the perpetrators, alleged discriminatory treatment in criminal proceedings, reported harassment, intimidation and threats faced by witnesses and victims testifying in proceedings, the failure to recognize survivors of torture including sexual violence during the conflict and inadequate co-operation with the International Criminal Tribunal on Former Yugoslavia, in particular by the Republika Srpska, in failing to arrest and transfer indicted persons, for international crimes. The Committee recommended the State party to undertake a number of effective measures in this regard including prompt and impartial investigations into all allegations of torture and other cruel, inhuman or degrading treatment, the prosecution and punishment of the perpetrators irrespective of their ethnic origin, and the provision of fair and adequate compensation for victims. The State party was also urged to enforce relevant legislation, including providing protection of witnesses in proceedings, and ensure that testimonies by victims of torture and ill treatment are provided with fair treatment at all stages.

Additionally, the Committee was concerned that individuals may not have been able, in all instances, to enjoy full protection under relevant articles of the Convention in relation to expulsion, return or extradition to another country. It urged the State party to ensure full compliance with Article 3 of the Convention, and to ensure that individuals under the State party's jurisdiction are considered by its competent authorities and guaranteed fair treatment at all stages of the proceedings, including an opportunity for effective, independent and impartial review of decisions of expulsion, return, or extradition. The State party was requested to provide the Committee with information regarding cases of extradition where the risk of being subject to torture has been or not been considered,

including information whether safeguards are in place to prevent such extradition.

Regarding prison facilities, the Committee noted with concern the lack of separate facilities for imprisoned men, women and children, the failure to ensure that detainees have prompt access to a lawyer and doctor, reports of inter-prisoner violence and reported cases of sexual violence in prisons and places of detention. It urged the State party to ensure that men, women and children are kept in separate facilities in conformity with international standards in force and called upon the State party to ensure that all persons detained are guaranteed a right to contact their families, and have immediate access to an independent medical doctor and legal counsel from the very outset of the deprivation of liberty. In addition, the Committee stated that the State party should conduct prompt investigation of all allegations of violence within detention or prison establishments and to take effective measures to prevent such occurrences. While noting the efforts made by the State party to combat trafficking for sexual slavery, the Committee remained concerned that only a small number of cases have actually been investigated and prosecuted and that mainly fines and light sentences were imposed on the cases pursued. The Committee was also concerned at the alleged complicity of the police and border authorities and called upon the State party to take the necessary measures to ensure that all law enforcement officials fully and promptly investigate all alleged cases of trafficking in persons, that offenders are prosecuted and to ensure the full implementation of the Law on the Movement and Stay of Aliens and its by-law on the protection of victims of trafficking. Furthermore the Committee recommended that the State party ensure that victims of trafficking obtain redress and have an enforceable right to fair and adequate compensation.

France (CAT/C/FRA/CO/3/CRP. 1)

The Committee considered the third periodic report from France. The concluding observations were not available in English at the time of printing. However a French version is available at the following link:

http://www.ohchr.org/english/bodies/cat/docs/CAT_C_FRA_CO_3_CRP.1.doc

UN Committee on the Rights of the Child (CRC)

At its 41st session from the 9-27 January 2006 the Committee on the Rights of the Child considered the following State reports: Azerbaijan, Ghana, Hungary, Liechtenstein, Lithuania, Mauritius, Peru, Saudi Arabia, Thailand and Trinidad & Tobago. The concluding observations were not available at the time of printing.

Regarding the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, the Committee will consider the following State reports: Andorra, Italy, Kazakhstan and Morocco. The Committee will also consider State reports from Andorra, Bangladesh, Italy and Switzerland in relation to the Optional Protocol on the Involvement of Children in Armed Conflict.

Council of Europe

Recent Signatures and Ratifications

On 19 January 2006 Belgium and Turkey signed the Council of Europe Convention on the Prevention of Terrorism.

On 19 January 2006 Bosnia and Herzegovina signed the following treaties: the Council of Europe Convention on the Prevention of Terrorism, the Convention on Action against Trafficking in Human Beings and the European Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism.

On 23 January 2006 Austria ratified Protocol No. 14 to the Convention for the Protection of Human Rights and Fundamental Freedoms, amending the control system of the Convention (CETS No. 194).

http://www.coe.int/T/E/Legal_Affairs/

European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)

Germany

The CPT carried out a visit to Germany from 20 November to 2 December 2005. It was the CPT's fifth visit to Germany. During the visit the delegation followed up on a number of previous issues, in particular, the fundamental safeguards against ill treatment offered to detained persons and the situation of immigration detainees. The delegation also examined the treatment of juvenile prisoners as well as patients placed in psychiatric establishments. In the course of the visit, the CPT held meetings with a number of senior officials in the Federal Ministries of Justice, the Interior, Family and Defence, as well as various Ministries of the Lander visited by the delegation.

Norway

On 16 December the CPT delegation published its preliminary observations on its visit to Norway from 3 to 10 October 2005. The delegation visited a number of law enforcement establishments including police stations and a preventative detention and security prison. In addition, the delegation visited a psychiatric hospital.

Regarding fundamental safeguards for people under the custody of police establishments, the delegation noted that the situation in Norway was still problematic in respect of access to a lawyer. Moreover, police officers still occasionally screened requests from detained persons to have access to a doctor. Notwithstanding this, the delegation had noted some improvement since the 1999 visit for example now the right of notification of custody was granted to a large number of detained persons – although not all. The delegation was informed of the practice of immigration detainees being injected with medication having a tranquillizing or sedative effect, in order to ensure that their deportation proceeded without difficulty. The CPT strongly stressed that the administration of

medication to persons subject to a deportation order must always be carried out on the basis of a medical decision taken in respect of each particular case.

Additionally the CPT reported concerns about certain aspects of the treatment of foreign prison inmates who speak neither Norwegian nor English, as regards their contact with the outside world and the information provided by staff. However, the Committee noted that the conditions of detention were of a high standard and no allegation of ill treatment of prisoners by staff were received at Trondheim prison. Despite this the delegation expressed concerns about certain aspects of the treatment of foreign inmates, especially as regards access to medical care and prison leave. The CPT noted that the patients living conditions in the psychiatric hospital were of a high standard and as regards treatment the delegation found that genuine efforts were being made to involve as many patients as possible in a wide range of therapeutic and rehabilitative activities.

Romania

On 19 January the CPT published a report on its visit to Romania in June 2004, together with the response of the Romanian government. The Committee's visit was triggered by information received regarding the death of many patients, due to malnutrition and/or hypothermia, at a psychiatric hospital, an establishment which the CPT had already strongly criticised in the past in respect of the patients' living conditions (particularly food and heating). In the course of this visit, the CPT also examined the situation of the residents at a Recovery and Rehabilitation Centre for Disabled Persons. The Committee intends to return to Romania in 2006 to carry out a periodic visit. The CPT's visit report and the response of the Romanian authorities are available on the Committee's web site (in French and Romanian language versions): <http://www.cpt.coe.int>

Spain

For CPT delegation visit to Spain (Melilla) from 12 – 19 December see EU Developments under miscellaneous.

Turkey

A delegation of the CPT carried out a visit to Turkey from 6 to 14 December 2005. The CPT's delegation focused on three main issues: the situation regarding the treatment of persons in the custody of law enforcement agencies, developments in high security prisons, particularly with regard to activities for inmates and the regime applied to prisoners serving a sentence of "aggravated life imprisonment" and procedures for the administration of electro-convulsive therapy (ECT) in psychiatric establishments. During this time the CPT delegation visited a number of law enforcement establishments, prisons and psychiatric establishments.

On 8 December 2005 the CPT published the report on its periodic visit to Turkey in March 2004, together with the response of the Turkish government. In the report the CPT examined the situation regarding the treatment of persons held by law enforcement agencies and prison related issues with particular focus on the situation of juveniles held in adult prisons.

The delegation positively noted that there has been a distinct improvement in recent times in the manner in which persons are treated whilst in police custody in the Izmir region. Less encouraging however was the experience in the Gaziantep region where allegations were received that detainees in the Anti-Terror department of the Police Headquarters were subjected to various forms of ill-treatment, including suspension by the arms, falaka, blindfolding, sleep deprivation and prolonged standing, as well as threats to harm the detainee and/or members of his family.

Regarding procedural safeguards against ill treatment, the CPT noted that only a small minority of detained persons had access to a lawyer during police custody, in many cases less than 10%. The CPT recommended that the Turkish authorities continue to actively promote access to a lawyer during police custody. In its report on the 1997 visit, the CPT severely criticized conditions of detention at Buca prison and noted with dismay that no significant improvements were apparent during this visit. Conditions of detention at a number of police headquarters were very poor with only limited access to natural light and no mattresses. The delegation expressed serious concern about the frequent failure

to comply with the rules in force concerning juveniles apprehended in relation to a criminal offence. In many cases, juveniles were not brought before the public prosecutor immediately following their apprehension and it was common practice for juveniles to sign, in the absence of a lawyer, an incident and apprehension report setting out a detailed account of the alleged offence and, on occasion, including statements said to have been made by them. Such procedures are in conflict with national legislation and the CPT called upon the Turkish authorities to ensure that the observance of this legislation is kept under close review in the context of the compliance monitoring procedure. Other recommendations and requests for information were also made by the delegation in relation to human rights training of law enforcement officials and health care for prisoners.

Iceland

On 26 January 2006 the CPT published the report on its visit to Iceland in June 2004, together with the Icelandic government's response. In the report, the CPT reviewed measures taken by the national authorities in response to the Committee's recommendations made after its 1993 and 1998 visits, in particular as regards the safeguards offered to persons detained by the police, the situation in penitentiary establishments, and the treatment of persons subject to civil involuntary psychiatric hospitalisation and treatment.

Regarding persons detained under aliens legislation, information on rights was provided to foreign nationals only orally, no written forms setting out these rights were available. Further, there were no express provisions on the right to have access to a doctor, and no specific safeguards for unaccompanied minors. The CPT recommended that the Icelandic authorities address these points. Furthermore, the delegation was informed that, in practice, foreign nationals were offered free legal aid only at the stage of appeal against the decision on their case, which apparently rendered it difficult to avoid deportation (the appeal having no suspensive effect). The CPT examined the modalities of the execution of decisions to deport foreign nationals by air. It was informed that the percentage of escorted deportations had increased in recent years. In this

respect, the CPT recommended that detailed instructions be issued on the procedure to be followed and, more particularly, on the use of force and/or means of restraint authorized in the context of deportation operations.

Slovak Republic

On 2 February the CPT published the report on its visit to Slovakia from 22 February to 3 March 2005. During the 2005 visit, the CPT followed up a number of issues examined during previous visits, in particular the treatment of persons deprived of their liberty by the police, as well as the situation in prisons and social services homes. The CPT noted with regret reports indicative of ill-treatment of persons deprived of their liberty by law enforcement agencies including by officers from special operation units wearing balaclavas. Most of the allegations of ill-treatment related to the time of arrest, however there were also some allegations relating to people in police custody. The types of ill-treatment alleged consisted mostly of slaps, punches and kicks, or blows with hard objects such as batons. Furthermore certain persons claimed that they had been struck with pistol-butts and flashlights. In a notable proportion of the cases, which came to the attention of the delegation, the alleged victims of ill-treatment were Roma. The CPT recommended that the Slovak authorities review the practice of police officers wearing balaclavas in the course of their duties and that ill treatment should never be tolerated.

Regarding procedural safeguards the Committee noted that little progress had been achieved since the time of the CPT's visit in 2000 and was particularly concerned that minors were not always given the opportunity to notify a close person of their detention and to have access to a lawyer. The CPT called upon the authorities to take immediate steps to ensure that the rights of notification of custody and of access to a lawyer become fully effective in practice, from the very outset of police custody. The Committee further visited psychiatric establishments and social services homes.

European Court of Human Rights (ECHR)

For the full text for the following cases please visit: <http://www.echr.coe.int/echr>

Aoulmi v France

Violation of Article 34

In this case, the applicant alleged that his removal to Algeria would put him at risk of treatment contrary to Article 3 on account of his state of health and his background as a member of a harki family (Algerians loyal to the French during the Algerian War of Independence). The applicant also contended under Article 8 that his removal to Algeria would infringe his right to respect for family life as he had no ties with that country and his entire family lived in France.

The applicant had come to France at the age of four and had remained there until his removal to Algeria. He contracted the hepatitis C virus in 1994 and in 1999 the applicant was sentenced to imprisonment for a drug offence. He had previously been convicted of several offences including burglaries in 1982 and 1984. In 1992 the applicant was further sentenced on the basis of drug offences and an order was made for his permanent exclusion from French territory. An appeal by the applicant against the order excluding him from French territory was dismissed. On 11 August 1999 the prefect made an order for the applicant's deportation to Algeria. On the same day Mr. Aoulmi applied to the European Court of Human Rights, which immediately informed the French government under Court Rule 39 that it would be desirable to refrain from deporting the applicant to Algeria until it had given its decision. However, Mr. Aoulmi was removed to Algeria a week later.

The European Court in considering the applicant's state of health decided that there was no breach of Article 3 in his removal to Algeria. The Court considered that Mr. Aoulmi had not sufficiently shown that his illness could not be treated in Algeria. The Court further noted medical evidence that showed that the applicant's health was not an immediate cause for concern. Accordingly, although the Court was aware that the applicant was suffering from a serious illness, it did not

find that there was a sufficiently real risk that his removal to Algeria in those circumstances would be incompatible with Article 3. Regarding risks faced in Algeria, the Court reiterated that the mere possibility of ill treatment on account of the unsettled situation in a particular country was not in itself sufficient to give rise to a breach of Article 3, particularly as political changes were now under way in Algeria and there was reason to hope that they would result in an improvement of the current situation.

In relation to Article 8, the main issue for the Court to assess was whether the exclusion order against the applicant had struck a fair balance between the interests at stake, namely his right to respect for his family life on the one hand, and the prevention of disorder or crime on the other hand. The Court noted, firstly, the serious nature of the acts for which the applicant had stood trial and then viewed the applicant's ties with France. The Court observed that the applicant had spent the majority of his life in France and most of his social ties were there. He had retained no links with his country of origin apart from his nationality. However, although the applicant's family members lived in France, the Court pointed out that relations between adults did not necessarily attract the protection of Article 8 without evidence of further elements of dependency involving more than normal emotional ties.

In those circumstances, the Court found that the French courts had been legitimately entitled to consider that ordering his permanent exclusion from French territory had been necessary for the prevention of disorder or crime. The Court therefore held that there had been no violation of Article 8. Nevertheless the Court held that there was a breach of Article 34 as the applicant's removal to Algeria had hampered the examination of his complaints and had ultimately prevented the Court from affording him the necessary protection from any potential violations of the Convention. Accordingly, the European Court concluded that by not complying with the interim measures indicated under Rule 39, France had failed to honour its obligations under Article 34 of the Convention.

European Court of Justice

Commission takes Member States to Court regarding Reception Directive

The European Commission has so far initiated proceedings before the European Court of Justice against four Member States for failing to comply with the Directive of 27 January 2003 concerning minimum standards for the reception of asylum seekers. Austria, Greece, Luxembourg and Portugal have failed to transpose this Directive into their national legislation. The Commission has also sent reasoned opinions to Belgium, Germany and Estonia on their failure to comply with the Directive.

National Developments

National Developments

AUSTRIA

New Asylum Law entered into force

The new Asylum and Alien Police act came into force on 1 January 2006. This new legislation has been criticized by a number of human rights organisations for a lack of legal protection and the wide range of powers given to the police forces within its provisions. The new legislation also contains provisions relating to an increase in the use of detention. For further information on the content of the legislation see the November issue of the Documentation Service.

<http://ris1.bka.gv.at/>

<http://www.bmi.gv.at/downloadarea/kunsttexte/Asylgesetz2005.pdf>

Asylum Senate rules that Slovakia is not safe for a Chechen asylum seeker

In December the Austrian Independent Asylum Senate ruled that Slovakia was not safe for a Chechen asylum seeker. This ruling was on the basis of the Slovak Foreign Ministry policy of not granting asylum to Chechens because of national security concerns. The case concerned a challenge by a Chechen asylum seeker to removal under the Dublin II Regulation to the Slovak Republic. An expert from the Helsinki Committee submitted information on the Slovak policy in the case hearing before the Senate.

BELARUS

Human Rights situation worsening in Belarus says UN Special Rapporteur

United Nations Human Rights Commission Special Rapporteur for Belarus, Adrian Severin, has painted a desolate picture of the human rights situation in Belarus, one of the countries where a Regional Protection Programme could be set up by the EU in 2006. Speaking to reporters on 13 January, during a visit to Brussels Mr Severin expressed deep concern that in Belarus not only were human rights being

violated, but the situation was becoming worse. The problem in Belarus is not only that those in power abuse human rights, he said, but that “the whole system is becoming increasingly totalitarian”.

For more information see:

Agence Europe 9109, 13/01/2006

<http://www.runic-europe.org/>

Catholic Priest Expelled and Pressure on Baptists Mounts

Catholic priest Fr. Robert Krzywicki was ordered along with another priest in mid-December 2005 to leave Belarus by the end of the year. He left the country on 27 December. He had served as a priest in the town of Borisov [Barysaw], north-east of the capital Minsk, for 12 years. No reason was given for the decision and Fr. Krzywicki said “I committed no crime.” Baptists from across the country have reported that pressure has also begun to mount on their congregations. Church members have appealed to the authorities in Brest and the capital Minsk against violations of their rights.

http://www.forum18.org/Archive.php?article_id=713&pdf=Y

Situation of NGOs in Belarus

In December, the Belarusian National Assembly passed amendments to Belarus’ criminal code, which could seriously affect civil society. There was particular concern over a new article on “Discrediting the Republic of Belarus”, which makes it a criminal offence to provide false information on the situation in Belarus to an international organisation. This would be punishable by six months imprisonment. The Bill would also make it a criminal offence to take part in street demonstrations, a clause which appears intended to crack down on the sort of youth movements that were so prominent in the Rose Revolution in Georgia and the Orange Revolution in Ukraine.

Human rights activists say the bill is aimed at undermining the opposition in the run-up to the presidential elections in March 2006.

A former judge of the Constitutional Court, Mikhail Pastukhou, was withering in his criticism, saying “The adoption of such amendments means the de facto declaration of a state of emergency in Belarus. It forbids making all kinds of statements and inhibits the right to public assembly. There’s not been a law like it anywhere else in the world.” For more information, see:

http://www.osce.org/belarus/item_1_17188.html
<http://un.by/en/dpi/news/belarus/09-12-05-07.html>
<http://www.data.minsk.by/belarusnews/122005/4.html>

EU Condemns Belarus Court Decision on NGO’s

On 4 January the European Union condemned a court decision in Belarus for imposing what it called “harsh penalties” on a top Belarusian human rights group. The court ruled that the Belarusian Helsinki Committee was guilty of tax evasion related to its TACIS programme. The EU statement said it believed Belarus is conducting a politically-motivated attack aimed at closing down one of the country’s last independent non-governmental o r g a n i s a t i o n s .

http://www.rferl.org/featuresarticle/2006/1/4_2_1_C_3_A_4_6_-_F_7_A_B_-_4_9_C_0_-_9_F_9_F_-_54F2ADE5F9DB.htm

BELGIUM

UNHCR criticises Belgian asylum seeker policies

On 3 December 2005, UNHCR raised its concerns over Belgian asylum policies, especially in relation to the detention of children, and accused the Belgium authorities of breaching international regulations laid out in the United Nation’s Convention on the Rights of the Child. The agency also called on the authorities to use alternatives to detaining children, such as electronic supervision or requirements to report to the authorities.

Source: <http://www.expatica.com/source/cata&bandid=2&storyid=207&me-UNHCR-criticises-Belgium-asylum-policies>

Restrictions on Family Unification

On 9 December a group of members of the Council of Ministers agreed to revise, *inter alia*, the rules governing family reunion for third-country nationals. One of the proposed changes is to increase the

minimum age for a resident to be joined by a third-country spouse, from 18 to 21 years. Once admitted into the country, the foreign spouse will be subject to a “probation period” of three years, instead of one, during which checks can be carried out to verify whether the relationship is a genuine one. As for the unification of dependent parents, the sponsoring family member will have to provide proof that he/she has the financial means to support them. The draft Bill containing these proposals was presented to the full Council of Ministers for approval on 23 December, before being transmitted to the Parliament.

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Belgium Tightens Asylum Policy for Eastern Europe
In December, members of the Council of Ministers agreed to the introduction of an accelerated procedure of five days for asylum seekers who are nationals of EU Member States or those accepted as candidates. This development comes following a recent rise in the number of Slovak asylum applications in Belgium. Asylum seekers will not be entitled to social welfare benefits during the accelerated procedure. According to sources, of the almost 15,400 persons who sought asylum in Belgium last year, around 1,000 were EU nationals or citizens of candidate States, none of which were granted asylum. Under the terms of the draft Bill, the Aliens Department will no longer handle asylum applications, which will be processed and decided upon by the Commissioner General for Refugees and Stateless Persons (CGRA). It was agreed that the matter should be discussed in ministerial working groups on the reform of the asylum procedure.

<http://www.bgnewsnet.com/story.php?lang=en&sid=20916>

Migrant News Sheet December 2005

CHECHNYA

PACE Resolution on the Human Rights situation in the Chechen Republic

Lawmakers from the Council of Europe’s 46 member states called for a committee of inquiry to be set up within the State Duma to investigate what they called serious human rights violations in Chechnya.

The Council of Europe's Parliamentary Assembly, comprising several hundred national legislators, said Europe's human rights watchdog had practically stopped monitoring the situation in Chechnya because of the danger and that torture, hostage-taking and arbitrary detention were going unpunished.

"The timidity with which the international community has responded to human rights violations in Chechnya has thrown a cloak of invisibility over them," said Belgian Socialist Marie-Jose Laloy, adding that Chechens felt "abandoned and desperate."

In a resolution, the assembly — an advisory body meeting four times per year in Strasbourg — said while it recognized the difficulties Russia faces in combating terrorism, human rights violations committed while suspected terrorists in were tackled in Chechnya were unacceptable. "We are well aware of the problems the Russian authorities have in restoring law and order in Chechnya. But if you're trying to restore law and order by violating human rights, the chances that you'll succeed are small," said Dutch Socialist Erik Jurgens.

For the full statement see:
<http://assembly.coe.int/>

DENMARK

UN High Commissioner for Refugees visits Denmark

The United Nations High Commissioner for Refugees, António Guterres, warned Denmark on 6 December 2005 against closing its borders to poor refugees. His comments came after the Employment Minister, Claus Hjort Frederiksen, suggested that Denmark should stop immigration of persons from Somali, Palestine, Iran and Iraq as they place too heavy a burden upon society due to their poor levels of education. The Minister was praised by the Danish Prime Minister for starting a necessary debate, though he admitted it would be against international law if Denmark began screening refugees and immigrants according to which country they came from. The High Commissioner pointed out the importance for public opinion to distinguish between

migrants seeking a better life in industrialised countries, and the need for the international community to provide protection to people fleeing from civil war. He also underlined that Europe should remain an asylum continent, granting protection to people fleeing persecution and war.

Source: http://www.unhcr.se/se/News/pdf/December_2005.pdf; www.dr.dk/dr2/deadline2230/tirsdag.htm

Repatriated Iranian Refugee to Sue Authorities

On 15 December 2005, the Eastern High Court (Ostre Landsret) ruled in favour of the application of an Iranian refugee who requested authorisation to sue the Refugee Appeals Board for Dkr 450,000 to compensate for his suffering after being denied asylum and forcibly repatriated in 1999. Upon repatriation, the refugee spent two years in an Iranian prison before being granted bail. He then seized the opportunity to flee his country for the second time and again sought protection in Denmark where he was subsequently granted refugee status.

Migrant News Sheet December 2005

FRANCE

France announces plans to repatriate Iraqi Kurds to Iraq with the United Kingdom

On 13 January 2006, Mr. Sarkozy, the French Minister of Interior, said Britain and France were working together to send Iraqi Kurd refugees back to their region, which is "relatively safe by strife-torn Iraq's standards". He said they were sending officials to the region at the end of January to negotiate a return agreement with the authorities there.

http://www.eubusiness.com/Living_in_EU/060113175505.b3p7vzju; <http://www.institutkurde.org/afp/?src=http://afp.institutkurde.org/AFP/francais/topics/actu/060113115749.3pg9m3gi.xml>

Faster expulsion for asylum seekers whose applications have been rejected

On 23 January 2006, Mr. Sarkozy, the French Minister of Interior indicated the need to introduce measures which will speed up the expulsion process of asylum seekers whose applications have been rejected. This

is in line with his objective of conducting 25,000 expulsions in 2006, an increase on the 20,000 goal in 2005. A decree is currently in preparation that will reduce the timeframe for making an appeal to 15 days, instead of one month. In addition, the 2006 Law on Finances plans to make the payment of benefits to asylum seekers conditional on their stay in reception centres.

Source: news.tf1.fr/news/france/?trk=1&e=2

France deports foreign rioter

France has begun the deportation of foreigners convicted of taking part in the riots that swept the country at the end of 2005. The Interior Minister announced on 4 February 2006, that the first person had been flown back to Mali. Six more expulsions would follow.

<http://www.telegraph.co.uk/news/main.jhtml?xml=/news/2006/02/04/wfrance04.xml&sSheet=/news/2006/02/04/ixworld.html>

Elaboration of a tougher Aliens Act

On 5 February 2006, France's Interior Minister announced the submission of a draft law that proposes a more selective immigration system, rewarding skilled and educated applicants, making it easier to expel foreign workers or those refusing to integrate. The law calls, among other things, for the creation of a grading system for students and workers that gives rankings depending on the country of origin and the field of work and study. For example, a three-year residence permit will be given to highly-skilled foreign workers, while students applying to study in a field in which there are not enough people will also be given priority. The draft law will also require that those granted a 10-year resident permit will have to prove they are learning French and respecting the country's laws, such as equality between men and women. The law also makes it harder for an illegal immigrant to gain residency status by marrying a French person. The spouse must now wait three years instead of 18 months to apply for citizenship and prove that he/she has made efforts to integrate. Finally, companies that employ foreign workers illegally will be forced to pay for their repatriation.

Sources: <http://www.telegraph.co.uk/news/main.jhtml?xml=/news/2006/02/07/>

[wsark07.xml&sSheet=/news/2006/02/07/ixworld.html](http://www.wsark07.xml&sSheet=/news/2006/02/07/ixworld.html); <http://uk.news.yahoo.com/05022006/325/france-eyes-selective-immigration-system.html>

GERMANY

Coalition agreement on migration

The new German government issued its coalition agreement on 12 November 2005. There are several paragraphs on migration: it states that the implementation of the Immigration Act will be evaluated, and that illegal migration will be examined. According to press information, "examination" refers to Article 87 that obliges official institutions to denounce undocumented migrants to the Foreigners' Office, and to Article 96, that states that it is illegal to support undocumented migrants, including for humanitarian reasons.

<http://www.aufenthaltstitel.de/zuwg/1093.html>

Additional draft laws presented to expand existing Immigration Act

On 3 January 2006, the German government introduced its plan to add laws to the current Immigration Act - the second time since it came into force one year ago. The government claims that this is necessary to bring the Immigration Act in line with EU asylum legislation. However, Pro Asyl has claimed that the purpose is to introduce additional laws that will toughen the existing Immigration Act. The proposed laws will focus, among others, on detention, the EU Qualification and Procedures Directives, and family reunification.

The Green party and the Left party have both made propositions for the establishment of laws regarding permits of stay. The Green Party would like to give all foreigners that have legally resided or have been granted exceptional leave to remain in Germany for more than 5 years a permit of stay. Such a permit should be given quicker to unaccompanied minors and victims of violent acts. The Left Party wants to go one step further making it possible to apply for such a permit earlier than five years and combining the permit to stay with a work permit. On 23 January 2006, the Green Party made a subsequent proposal entitled 'No

deportation until a decision on the permit to stay has been taken’.

Source: Pro Asyl, Newsletter Nr. 108 January 2006

To access the proposed amendments to the law see: http://www.fluechtlingsinfo-berlin.de/fr/pdf/BMI_AendG_ZuwG_030106.pdf (in German);

Green party proposals:

<http://dip.bundestag.de/btd/16/002/1600218.pdf>
http://www.proasyl.de/fileadmin/proasyl/fm_redakteure/Newsletter_Anhaenge/108/A_Abschiebestopp_060120.doc (in German)

Left party proposals:

<http://dip.bundestag.de/btd/16/003/1600369.pdf> (in German);

NGOs’ response see: http://www.proasyl.de/fileadmin/proasyl/fm_redakteure/stellungnahmen/Stellungnahme_Pa_nderungsgesetz_31.1.2006.pdf ; http://www.fluechtlingsinfo-berlin.de/fr/pdf/amnesty_2-AendG.pdf (in German)

Asylum applications in 2005 lowest for 20 years

On 8 January 2005, asylum statistics published showed that for the year 2005, 28,914 asylum seekers made an application compared to 35,607 claims in 2004. The main countries of origin of these asylum seekers were Serbia and Montenegro, Turkey, Iraq, Russia, and Vietnam. Out of the 48,102 decisions that were taken in 2005, 411 people were recognised as refugees; 58.4 % had their application rejected.

To access the press statement see: http://www.bmi.bund.de/cln_028/nn_662928/Internet/Content/Nachrichten/Pressemitteilungen/2006/01/Asylzahlen2005.html (in German)

Greens call for access to health and education for illegal immigrants

On 7 February 2006, the German Green Party launched a legislative initiative aimed at amending a provision in the Immigration Act, which discourages irregular migrants from seeking medical care and their children from attending school. Under the existing provision people in public posts must, “without delay”, inform the authorities in charge of foreigners when they encounter a foreigner who is not legally authorised to live in Germany or is under an expulsion order. The draft law wants to give basic and emergency health access to illegal immigrants, as well as access to

education for their children. The proposed amendments also call for the right of illegal immigrants to go to court if they are owed wages.

Sources: Migrant Policy Group, Migrant News Sheet, January 2006; Pro Asyl, Newsletter Nr. 108 January 2006

To access the full proposed amendments see: <http://dip.bundestag.de/btd/16/004/1600445.pdf> (in German)

GREECE

Systematic violations of the UN Convention on the Rights of the Child

Routine detention for weeks or months of children as young as 12 years while they await expulsion and being abandoned at the border crossing without documentation or assistance is a current practice in Greece, according to a report published by the Greek Ombudsman. According to UNHCR in Greece, 302 unaccompanied children who arrived in Greece in 2004 have been denied healthcare and education and are being held in detention at risk of expulsion.

Source: Migrant Policy Group, Migrant News Sheet November 2005

Immigrants’ concerns over Greek Amnesty

On 14 December 2005, Greece announced an amnesty for up to half a million illegal immigrants. It is aimed at ending uncontrolled immigration and integrating the one million foreigners in the country more effectively. But many believe that the law excludes them and that they will have to remain outside the law. The main obstacle is that the amnesty is not on offer to anyone who entered Greece illegally and who cannot prove they have been living in the country for at least one year. The new law also carries a new threat of deportation.

Source: <http://news.bbc.co.uk/1/hi/world/europe/4528274.stm>

ICELAND

Human rights report by the Commissioner for Human Rights of the Council of Europe

On 14 December 2005, the Commissioner for Human Rights of the Council of Europe, Alvaro Gil-Robles,

presented his report on the respect for human rights in Iceland to the Committee of Ministers. The report addressed the treatment of asylum seekers, especially the absence of free legal advice from the start of the application process. The Commissioner recommended that the Icelandic authorities apply the provisions of the Act on Foreigners concerning grounds for expulsion and the penalisation of the possession of forged identity documents in accordance with Article 31 of the Refugee Convention.

To access the full Report (CommDH(2005)10) see: http://www.coe.int/T/E/Commissioner_H.R/Communication_Unit/CommDH%282005%2910_E.doc

IRELAND

Ireland's willingness to receive refugees from Malta

On 19 October 2005, the Minister for Foreign Affairs, Michael Frendo, announced that Ireland was considering taking the same step as the Netherlands and offering resettlement to refugees currently in Malta. Ireland has recently increased its annual resettlement quota to 200 refugees for resettlement, up from the previous quota of 10 cases (around 40 persons).

Sources: Migration Policy Group, Migration News Sheet, November 2005; http://www.irishexaminer.com/pport/web/Full_Story/did-sgYSuNbKsYKvYsgadLjt5C321I.asp
<http://www.unhcr.org/cgi-bin/texis/vtx/news/opedoc.htm?tbl=NEWS&id=42a86039b&page=news>

See the Department of Justice for further information: <http://www.justice.ie/80256E01003A02CF/vWeb/pcJUSQ6D6L57-en>

ITALY

The situation of immigrants in Lampedusa

The Minister of the Interior, Giuseppe Pisanu, spoke to the Italian Parliament on 10 November 2005 about the situation concerning immigrants in Lampedusa. Mr. Pisanu denied that violent incidents and abuse ever took place, and said that the only problem in Lampedusa was the overcrowding of the centre. Before the summer of 2006, the government will build a new detention centre on Lampedusa and the current

one will become a first aid centre for immigrants arriving on the island. Médecins Sans Frontières (MSF) accused the Italian government on 13 November 2005 of doing too little to ease what it called an emergency situation after more than 700 illegal immigrants landed on Lampedusa on 11 November 2005. All were taken to a holding centre built to house just 190 people. Although 390 people were later flown to other holding centres on the mainland, MSF said that too little had been done to ease overcrowding on the island.

Source: <http://www.ilmanifesto.it/Quotidiano-archivio/11-Novembre-2005/art46.html>

<http://www.nytimes.com/2005/11/14/international/14italy.html>

Council of Europe human rights report

On 14 December 2005, the Commissioner for Human Rights of the Council of Europe, Alvaro Gil-Robles, presented his report on the respect for human rights in Italy to the Committee of Ministers. The report identified a number of shortcomings regarding, in particular, the treatment of arriving foreigners, asylum and expulsion procedures, and prison conditions. Regarding asylum procedures, the Commissioner noted the fact that Italy does not have specific laws on asylum but relies instead on various general texts and confuses the legal regulations on asylum. In addition, he highlighted that the practice of having one single administrative decision on an asylum application to expel the applicant excessively limits the protection offered. Regarding the removal of asylum seekers, he said that they are often based on summary identification, lack of transparency and are not independently monitored by outside agencies. Asylum seekers are sent to countries (i.e. Egypt and Libya) where Italian authorities are violating the principle of non-refoulement. Concerning reception centres, many are being used simultaneously as reception centres, identification camps and temporary residential and assistance centres, without access for inspection by independent organisations. Many centres do not have adequate housing structures, are often overcrowded, have inadequate basic hygiene, and do not provide access to medical care. The centre on the island of Lampedusa was especially criticised for falling "totally short of the minimum standards of space and hygiene needed to accommodate numbers beyond its official

capacity in decent conditions”. Moreover, the reception facilities and assistance provided for asylum seekers meets only a small proportion of the actual requirements. The Commissioner has repeated his call to all EU countries to share the responsibility for “these would-be immigrants”, which Italy receives in greater number due to its location.

To access the full Report (CommDH(2005)9) see: http://www.coe.int/T/E/Commissioner_H.R/Communication_Unit/CommDH%282005%299_E.doc

KOSOVO

UNMIK’s forced return policy

In December 2005, the United Nations Interim Administration Mission in Kosovo (UNMIK) published its policy on forced return, stating that it would not accept the forcible return of particular groups of persons, since they remain in need of international protection according to UNHCR. These are: Kosovo Serbs or Roma; Kosovo Albanians/Bosniaks originating from areas where they constitute a minority; Kosovars who face serious protection-related problems including physical danger, Kosovo Albanians in ethnically mixed marriages, persons of mixed ethnicity and Kosovo Albanians, Gorani and Bosniaks perceived to have been associated with the Serbian regime. The forced return of members of the Ashkali or Egyptian communities will only be accepted in limited numbers and to certain identified locations. In addition, UNMIK will not accept the forced return of vulnerable groups, e.g. persons requiring special health attention, unaccompanied elderly persons, and will prevent separation of families.

Source: Pro Asyl, Newsletter Nr. 108 January 2006
To access UNMIK’s background note see: http://www.proasyl.de/fileadmin/proasyl/fm_redakteure/Newsletter_Anhaenge/108/pdf_filename_UNMIK_20Dez._202005.pdf

MALTA

Automatic detention of illegal arrivals

On 5 October 2005, the Minister of Interior, Torio Borg, warned that his government “will be tough with those [asylum seekers] who do not deserve

protection”. The Minister reaffirmed his determination to maintain the policy of automatic detention of all those who arrive in the country illegally. The Minister gave assurances that his government would not evade its duty to rescue any migrants in distress at sea.

Migration Policy Group, Migration News Sheet, November 2005

THE NETHERLANDS

Expulsion will be applied more often to foreigners convicted of offences

On 11 October 2005 the government decided to adopt a more rigorous approach to foreign residents who break the law and who have not lived in the Netherlands for a very long time. They may lose their residence permits and be expelled from the country. Those who have been granted protection are exempted from the measure.

Migration Policy Group, Migration News Sheet, November 2005

New asylum policy for the treatment of Iraqi asylum seekers

The Minister for Integration and Immigration declared in a press statement on 20 January 2006 that the government would end the blanket protection policy for asylum seekers from central Iraq. All resident permits by Iraqis will also be reconsidered and those found to no longer be in need of protection will find themselves automatically at risk of being forcibly returned.

http://www.justitie.nl/english/press/press_releases/archive%5Carchive_2006/60124Country-based_asylum_policy_on_Iraq.asp

The Dutch Council for Refugees response:

<http://www.vluchtelingenwerk.nl/898-VluchtelingenwerkOpleidingenInstituutCentraalCommissieVreemdelingenwetgeving>
(in Dutch)

Dutch policy of return for asylum seekers whose applications have been rejected criticised

On 26 January 2006, the Parliamentary Assembly of the Council of Europe (PACE), passed a resolution criticising the approved February 2004 Dutch policy on asylum seekers, which sets up rules for implementing

the return of asylum seekers who applied for asylum before 1 April 2001 and whose applications have been rejected. These criticisms are also relevant for other Council of Europe Member States applying similar return policies, such as Switzerland and the United Kingdom. PACE believes that special consideration should be given to those asylum seekers who have established strong family, community or other links with the host country and have integrated. In addition, PACE is concerned that through an expedited return policy the Netherlands may return people to a situation where they might be at risk of serious human rights violations or be unsafe. PACE also regrets that this policy does not foresee any clear exemptions from detention for specific vulnerable categories of asylum seekers whose applications have been rejected. It recommends granting residence permits to asylum seekers who cannot be returned, the granting of a reasonable period of time to organise voluntary return, and maintaining access to housing, social benefits and health care for asylum seekers who cannot be returned.

For the Resolution 1483 (2006) see: <http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta06/ERES1483.htm>

For the Report (No 10741) see: <http://assembly.coe.int/Main.asp?link=http://assembly.coe.int/Documents/WorkingDocs/Doc05/EDOC10741.htm>

POLAND

EU Dublin II Regulation forces Chechen asylum seekers to turn to human smugglers

On 5 December 2005, UNHCR reported that Chechen asylum seekers in Poland, feeling disappointed by Polish reception standards and low recognition rates, resort to human smugglers in their attempt to leave as the Dublin II Regulation does not allow them to transit Poland on their way to other EU countries. Although the number of asylum seekers coming to Poland is dropping, the percentage of Russians, most of them Chechens, is increasing. Only a small percentage of these asylum seekers acquire full refugee status, while others are granted “tolerated stay”, which provides its beneficiaries with nothing in the way of support. It was also observed that many

Chechens leave without even waiting for the decision of the asylum authorities.

<http://www.unhcr.ch/cgi-bin/texis/vtx/news/opedoc.htm?tbl=NEWS&id=43947275a>

ROMANIA

Draft bill on asylum

On 3 November 2005, the government approved a draft bill on asylum. It includes new provisions for the extension, termination and cancellation of protection arrangements. The main adjustments in the bill relate to family reunification, exclusion from protection, approval procedures for application for new protection, various other forms of procedure related to the same matter, including for applications submitted by unaccompanied minors, as well as the termination or cancellation of protection. The bill also mentions specifically the principles and guarantees of asylum, and introduces specific definitions, while modifying existing ones.

Save the Children, Separated Children in Europe Programme (SCEP), Newsletter No 23, October-December 2005

RUSSIAN FEDERATION

Situation for NGOs in Russia

Increasing pressure is being put on non-governmental organisations in the Russian Federation. In January, some employees of the British embassy were accused of spying, and many believe that this was a deliberate ploy to attack the reputation of NGOs who receive funding through foreign embassies and justify the increasing restrictions being placed on NGO activity at the moment.

A law on civil society organisations was signed on 10 January by President Putin and will come into force in April 2006. (See Documentation Service, November 2005). The Parliamentary Assembly of the Council of Europe stated on 25 January that the new law does not meet the standards of the Council of Europe. Many fear that the new law will greatly restrict the activities of non-governmental organisations in the Russian Federation.

The Justice Ministry confirmed that it had asked a Moscow court to order the closure of the Russian Human Rights Research Centre on the grounds that it had not filed reports on its activity for five years. But Lyubov Vinogradova, the centre's director, said that all reporting requirements had been fulfilled. Valentina Melnikova, a member of the board of the centre, accused the Government of singling out the group as part of a broader crackdown on NGOs.

In a further development, human rights defender Stanislav Dmitrievsky was sentenced to two years suspended sentence on 3 February, for inciting racial hatred when he published statements by the late Chechen separatist leader Aslan Maskhadov, and his envoy Akhmed Zakaev in his newspaper "Rights Defence". It is the consensus of opinion amongst international and Russian NGOs that the articles published did not contain incitement to hatred, or call for violent action. Many believe that Stanislav Dmitrievsky's conviction is designed to crack down on the independence of non-governmental organisations, and to restrain free speech.

Statement by Human Rights Centre "Memorial" on the sentence on Stanislav Dmitrievsky

The sentence passed on Stanislav Dmitrievsky is yet another step towards the destruction of freedom of speech in this country. Undoubtedly, it is a political sentence, without any legal basis. It is obvious that Dmitrievsky's case is part of a campaign against civil society in Russia.

The authorities, especially the secret services, who are increasingly taking power into their own hands in Russia, are giving a clear unequivocal message with this sentence "We are the ones who have the right to decide what Russian citizens need to know and what not".

Censorship has not yet been introduced in Russia, but they want us to be afraid and to start our own internal censorship.

Will they achieve their aim?

That will depend on each one of us.

For more information, see:

<http://news.bbc.co.uk/2/hi/europe/4640632.stm>

<http://news.bbc.co.uk/2/hi/europe/4658026.stm>

<http://www.hro.org/ngo/about/2006/02/03-2.php> (In Russian)

SLOVENIA

Concern about new asylum laws

On 24 November 2005, amendments to the national asylum legislation were confirmed by the Slovene government. The proposed amendments will allow the Slovene police to decide whether a person qualifies to seek asylum. The amendments do not foresee the presence of guardians or any other legally appointed representative in these proceedings for separated children.

<http://www.unhcr.ch/cgi-bin/texis/vtx/news/opedoc.htm?tbl=NEWS&id=4386f2cd11>; Separated Children in Europe Programme (SCEP), Newsletter No 23, October-December 2005

SPAIN

Council of Europe human rights report

On 9 November 2005, the Commissioner for Human Rights of the Council of Europe, Alvaro Gil-Robles, presented his report on the respect for human rights in Spain to the Committee of Ministers. The report notes that several retention centres lack the necessary physical conditions and urgently need to be improved. It was found that they often looked prisons, with priority being given to security over other considerations. In addition, most detainees do not have sufficient access to legal assistance and to information about their situation, their rights and duties. Another problem highlighted was the high number of immigrants without documents illegally present on Spanish territory, due to bureaucratic difficulties and legal problems in the Aliens Law. According to the Commissioner, the principle of non-refoulement has not been included in the new law. The situation of unaccompanied foreign minors is especially difficult due to disparities in applying the rules of the Aliens Law, poor cooperation between the autonomous authorities and the central administration, and the reluctance of certain representatives of the juvenile welfare services to implement the necessary protection measures. The

report looks at the particularly bad situation on the Canary Islands and the autonomous cities of Ceuta and Melilla, stating that they are witnessing serious shortcomings in regard to the humane treatment of asylum seekers, reception conditions, asylum procedures and expulsion orders. In this regard, the Commissioner emphasised the importance of the international community's help to Spain and Morocco. To access the full Report (CommDH(2005)8) see: http://www.coe.int/T/E/Commissioner_H.R/Communication_Unit/CommDH%282005%298_E.doc

Spanish draft law to recognize gender persecution as grounds for refugee status

The Spanish government is currently reforming Spanish asylum legislation in the form of a new draft law, which will expand the grounds of persecution in recognition of refugee status to include persecution due to gender or sexual orientation. According to the new reform, women who can prove they have faced persecution in their country of origin because of their gender would be eligible for protection in Spain, as would homosexuals from countries where homosexuality is a capital offense or otherwise severely punished.

The law will also reduce the number of subjective considerations on which immigration officials can deny refugee status thereby encouraging judgments on strictly objective examinations of the facts. In addition it will also expand the scope for subsidiary protection of persons who are not eligible for refugee status. The new draft law is expected to be formally presented over the next few months and obtain congressional approval before the end of the year.

<http://news.telegraph.co.uk/news/main.jhtml?xml=/news/2006/01/03/wspain03.xml>
<http://www.iht.com/getina/files/300016.html>

Spain signs Readmission agreement with Ghana

On 21 October the Spanish government gave permission to proceed with the signing of a readmission agreement with Ghana. The ratification process in Ghana has proven to be more complicated but the Ghanaian government has given assurances that the ratification will be completed in the course of 2006.

Once signed, the text will be the third agreement Spain has signed with a sub-Saharan country, after Guinea-Bissau and Nigeria. Spain is also currently working towards the conclusion of a similar agreement with Mali, Guinea-Conakry, Cameroon and Gambia. Migration News Sheet, December 2005.

SWEDEN

Sweden grants asylum to citizen from EU candidate country Romania

Sweden has granted political asylum to a yoga teacher from EU candidate state Romania it emerged 12 January 2006, on the grounds that he may face persecution due to his religious views in Romania, and that a trial against him in his home country would not be fair. In October 2005, the Swedish government rejected a Romanian justice ministry's request for his extradition on the same grounds. Mr. Bivolaru, founder of the Movement for the Spiritual Integration into the Absolute (MISA) is standing trial in Romania for, amongst other things, rape, tax fraud and making anti-Semitic statements.

<http://euobserver.com/?aid=20661&rk=1>

Review of Rejected Asylum Seekers under Temporary Legislation

The Swedish Migration Board has received more than 21,000 applications by rejected asylum seekers hoping to benefit from the government's amnesty, which came into force on 15 November 2005. Under the amnesty, rejected asylum seekers have until 31 March 2006 to lodge their applications. This law focuses on families who have stayed a long time in Sweden and also on groups who cannot be sent back to their home countries. Individuals can be excluded from benefiting from this law due to criminality.

<http://www.recomnetwork.org/article.pl?sid=06/01/24/0726232&mode=thread>

Migrant News Sheet, December 2005

SWITZERLAND

Tougher immigration rules face opposition

The Swiss Aliens Bill is before the Senate after having been made more restrictive by the Lower House in September 2005. Under the Bill, foreigners will no

longer have a legal claim to a long-term residence permit after ten years of living in Switzerland. Further restrictions include a narrowing of the criteria for family reunion and the age limit for children to be granted a long-term residence permit has been reduced from fourteen to twelve years. As for irregular migrants, it will become extremely difficult for them to obtain legal status and those having lived in Switzerland for more than four years and who apply for a residence permit will not have their case examined in detail. The new law reaffirms the current two-tier immigration practices, which give priority to citizens from Europe's two main trading blocs and highly-skilled labour from outside the EU and EFTA zones. NGOs and the Green Party are challenging the decision by parliament to limit the number of non-European foreigners in Switzerland in this bill.

<http://www.swissinfo.org/sen/swissinfo.html?siteSect=41&sid=6337202>

Migration News Sheet, November 2005.

175 Ethiopians and Eritreans denied a humanitarian permit even though they cannot be repatriated

In 2003, the government of the canton of Vaud presented the cases of 175 asylum seekers of Ethiopian or Eritrean nationality whose applications had been rejected arguing that they satisfied the conditions to receive a humanitarian permit. The Federal Office for Migration rejected their applications in December 2005 even though they cannot be repatriated since Ethiopia and Eritrea generally refuse to readmit their own nationals who have been expelled by other countries.

Source: Migrant Policy Group, Migrant News Sheet, January 2006

Law on the use of force during expulsion adopted

On 18 January 2006, the Federal Council of Switzerland adopted a law on the use of force during expulsion orders, which regulates the use of physical violence, as well as the tools and weapons that officers can use. These laws will not only govern the behaviour of expulsion officers but of all police officers.

Pro Asyl, Newsletter Nr. 108 Januar 2006

To access further information on this law see: <http://www.news.admin.ch/NSBSubscriber/message/de/>

[attachments/2254/4711/1668/060116_bot-zwangsanwendung-d.pdf](http://www.admin.ch/attachments/2254/4711/1668/060116_bot-zwangsanwendung-d.pdf) (in German)

UNITED KINGDOM

UK returns asylum seekers whose applications have been rejected to Iraq

Following on from the announcement by the Home Office in February 2004 that it intended to return Iraqi asylum seekers whose applications have been rejected, the first group of 15 Iraqis were returned to Arbil, the Kurdish northern area of Iraq, by military plane on 20 November 2005. It then emerged that one of the 15 Iraqis had been unlawfully deported and the Home Office has been instructed to bring him back to the UK. The Home Office practice of deporting asylum seekers whose applications have been rejected "at about midnight in the middle of the weekend" was condemned on 19 December 2005 by a senior British judge, Mr. Justice Collins. The government was also criticised for putting deportees onto flights to their home countries at short notice.

Source: <http://politics.guardian.co.uk/iraq/story/0,,1647292,00.html>; <http://news.independent.co.uk/uk/politics/article328376.ece>; http://news.bbc.co.uk/2/hi/uk_news/4456480.stm
<http://news.bbc.co.uk/1/hi/uk/4544098.stm>

For responses from NGOs see:

<http://www.amnesty.org.uk/news/press/16620.shtml>;
http://www.refugeecouncil.org.uk/downloads/briefings/Briefing_Iraq_return&S4.pdf; http://www.refugeecouncil.org.uk/news/2005/Nov05/rela1105_2.htm;
<http://www.amnesty.org.uk/news/press/16620.shtml>

Asylum Statistics: 3rd Quarter 2005

The number of applications for asylum in the UK, excluding dependants, was 2 % higher in the 3rd quarter of 2005 (6,315) compared with the 2nd quarter (6,220), but down 26% over the same quarter of 2004. The top nationalities applying for asylum were Iran, Eritrea and China. In the 3rd quarter, there were 3,460 principal applicants removed from the UK, 12% more than in the 2nd quarter and 10% more than in the same quarter of 2004. The five nationalities accounting for the highest number of removals were Serbia and Montenegro, Afghanistan, Iraq, Turkey and Pakistan.

<http://www.homeoffice.gov.uk/rds/pdfs05/asylumq305.pdf>

Dispersal risks ‘ghettoisation’ of asylum seekers

According to an official study into the policy of dispersing asylum seekers, whose results were made public on 22 December 2005, sending them to deprived areas poses the risk of creating long-term ‘ghettos’. Moreover, asylum seekers sent to the very poorest parts of the UK were three times more likely to be victims of racist attacks and racial harassment. The report also underlined the need for the Home Office to consult and inform local people before sending asylum seekers to their communities.

Source: Migrant Policy Group, Migrant News Sheet, January 2006

Electronic monitoring of new asylum seekers has arrived

Since January 2006 the Home Office has been tagging new asylum seekers from the moment they notify the Home Office of their arrival in the UK, until the acceptance or rejection of their claim. According to Section 36 of the Immigration and Asylum Act 2004 the government is allowed to use electronic monitoring of those liable to be detained under the Immigration Acts. This includes asylum seekers, illegal entrants, those found working in breach of their conditions of stay, overstayers, people subject to further examination at a port of entry, and those refused leave to enter.

Source: <http://www.ncadc.org.uk/newszine66/tagging.html>

UK pilot programme to offer assistance to the value of £3,000 to voluntary returnees

From 12 January 2006 the UK government started a 6 month pilot programme offering asylum seekers who choose to return voluntarily to their country of origin assistance to the value of £3,000. Previously returnees were offered reintegration assistance to the value of just £1,000. Individuals who are eligible under the pilot scheme will receive £500 as a relocation grant and the remaining amount will be given in the context of individually tailored and agreed reintegration plans. Only those who claimed asylum before the end of December 2005 are eligible. The Home Office

anticipates that the scheme could increase the number of predicted returns from about 1,950 to over 3,000 for the six-month period. The pilot will be evaluated by the International Organization for Migration (IOM), who will look at how offering increased assistance for re-integration will encourage asylum seekers whose applications have been rejected to withdraw their appeals and return back to their country of origin.

http://www.publications.parliament.uk/pa/cm200506/cmhansrd/cm060112/wmstext/60112m01.htm#60112m01.html_spm4; <http://www.guardian.co.uk/immigration/story/0,15729,1685423,00.html>;

http://www.refugeecouncil.org.uk/news/2006/jan06/curr0106_1.htm;

<http://www.timesonline.co.uk/article/0,,2-1983132,00.html>

The New Asylum Model should speed up the asylum process

The New Asylum Model aims to speed up the asylum process, the Home Office stated on 18 January 2006. Under the new model asylum claimants will be put through a process tailored to the characteristics of their claim, with a specialist ‘case owner’ responsible for managing the claimant and their case right through to integration or removal. The ‘case owner’ is the direct point of contact for the claimant, their legal representative and the courts.

<http://press.homeoffice.gov.uk/press-releases/new-asylum-model-swifter-decisio>

The British Refugee Council response: <http://www.refugeecouncil.org.uk/downloads/briefings/NewasylummodelSept05.pdf>

Refugee Claims Adjudicator to consider exclusion from refugee status

In *A (Iraq) v Home Secretary* [2005] EWCA Civ 1438, Court of Appeal, 1 December 2005 the Court ruled that it is mandatory for refugee claims adjudicators to consider whether an asylum seeker should be excluded from refugee status due to participation in acts of torture. The present case concerned whether the Secretary of State was entitled to raise on appeal to the IAT, not having taken the point before the Adjudicator, the objection that the asylum claimant, as a self confessed torturer under Saddam Hussein’s

regime in Iraq, was excluded from the protection of the Refugee Convention by Article 1F.

The applicant was an Iraqi national who claimed asylum in the UK in 2000 on the basis that he had been forced to become a member of the Fedayeen and hence that his life was in danger. The application was refused and in September 2003 the applicant appealed to the Adjudicator. At this time, the situation had changed dramatically in Iraq and the applicant's claim also changed its emphasis with the applicant asserting that he had been a voluntary fighter for the Fedayeen Saddam Commando for six years whereby 'he tortured and detained both Kurds and Arabs'. The Adjudicator allowed the applicants appeal, however, no reference was made to Article 1 F of the Convention. Subsequently the Secretary of State then appealed to the IAT on a number of grounds, one of which was that in light of the claimant's admissions of voluntary involvement in torture, the Adjudicator should have considered whether he was excluded from refugee status. This appeal was dismissed with the Tribunal noting that the Adjudicator did not commit any legal error in not raising the issue of Article 1F. Subsequently the Secretary of State appealed to the Court of Appeal submitting that the Tribunal erred in treating this as a matter of discretion for the Adjudicator. The Court noted that there was clear and undisputed evidence that the claimant had voluntarily participated in acts of torture presented to the Adjudicator and as such the only conclusion was that Article 1F applied and hence the applicant was disentitled to the protection of the Convention. The Court allowed the appeal on the grounds that the Adjudicator's decision, on the facts found by him, was erroneous in law.

Consideration of refugee claim on the basis of sexual orientation persecution

In *Amare v Home Secretary* [2005] EWCA Civ 1600 Court of Appeal, 20 December 2005 the Court of Appeal considered an applicant's asylum claim on the basis of alleged persecution on the grounds of homosexuality. The applicant was an Ethiopian woman who claimed asylum upon arrival in the UK. She claimed before the adjudicator that she feared persecution upon return to Ethiopia by reason of the fact that she is a homosexual. The adjudicator in

considering in-country information noted that homosexuality is illegal in Ethiopia and that it is culturally unacceptable in Ethiopian society. He also accepted that the applicant had a genuine subjective fear of persecution on return, going on to consider whether that fear was well founded. Taking into account the fact that the applicant had not been persecuted in the past in Ethiopia by reason of her homosexuality the adjudicator concluded that the applicants fear was not well founded.

The appellant submitted to the Court of Appeal that the adjudicator had erred in law by failing to consider whether, if the applicant had adopted an open homosexual life in Ethiopia she would face persecution. However, the Court considered that the adjudicator had stated not that the applicant should act discreetly or secretly in her private life so as to avoid persecution, but that as a matter of fact that is how she would conduct herself, having done so previously. In these circumstances it was judged that the adjudicator could not be held to have perpetrated a legal error for failure to take this point on the facts. Subsequently the Court of Appeal considered two important qualifications to States obligations under the Refugee Convention. Firstly, the fact that the Convention only requires protection to be afforded in case of particular violations of human rights norms: those arising "for reasons of race, religion, nationality, membership of a particular social group or political opinion". Secondly, the violation must attain a substantial level of seriousness if it is to amount to persecution. Furthermore, the Court ruled that the Convention is not there to safeguard or protect potentially affected persons from having to live in regimes where pluralist liberal values are less respected than they are in the UK. Whilst accepting that the sense to be accorded to persecution might shift and stretch as the international consensus develops, the Convention's guarantees remain limited by the two qualifications. Subsequently the Court dismissed the appeal on the above grounds.

UKRAINE

Ukraine: Migrants, Asylum Seekers Regularly Abused

Ukraine regularly subjects migrants and asylum seekers to abuse, including extended detention in appalling conditions, violence, extortion, robbery and forced returns to face torture or persecution, Human Rights Watch said in a report released on the eve of the EU-Ukraine summit.

The 77–page report, “On the Margins - Ukraine: Rights Violations Against Migrants and Asylum Seekers at the New Eastern Border of the European Union,” documents the routine detention of migrants and asylum in appalling conditions, and reports that the asylum system is “barely functioning”.

<http://hrw.org/english/docs/2005/11/30/ukrain12097.htm>

A joint statement by nine Ukrainian NGOs was issued on December 15th, analysing the gaps in protection for refugees and asylum seekers in Ukraine. The statement “Ukrainian NGOs say currently no durable solutions for refugees in Ukraine”, is available from the ECRE secretariat. If you would like a copy, please contact crimmer@ecre.org or rbugler@ecre.org

EU Developments

ECRE PUBLICATIONS

ECRE report on transposition of the Reception Directive

In a report published in November 2005, ECRE has found that many Member States are failing to meet the requirements of the reception directive, months after the February 2005 deadline for transposition. ECRE notes that several States are not providing an adequate standard of living for asylum seekers, particularly with respect to housing and financial allowances that should cover basic needs. In addition, the survey of 15 member States finds that several countries maintain different criteria for reducing or withdrawing reception conditions than those permitted under the directive. The report looked at the progress of legal transposition of Council Directive 2003/9/EC and practical implementation in three specific areas: provision of material reception conditions, withdrawal of reception conditions and access to the labour market. Not all Member States appear to be granting asylum seekers access to their labour market within 12 months, as stipulated in the Directive. The report also observed that the new Member States that joined the EU in May 2004 are generally in a process of raising their standards as required by the Reception Directive, while 'old' Member States are interpreting it restrictively, disregarding Article 4 which permits them to maintain higher standards.

"The EC Directive on the Reception of Asylum Seekers: Are asylum seekers in Europe receiving material support and access to employment in accordance with European legislation?" is available on the ECRE website at http://www.ecre.org/positions/Reception%20Report_FINAL_Nov051.doc

ECRE publishes Way Forward Paper on protection in regions of origin

In the fifth paper of its Way Forward series, entitled "Guarding Refugee Protection Standards in Regions of Origin", ECRE calls on Europe to play a leading role in sharing the responsibility of protecting refugees with countries in regions of origin that host the majority

ECRE argues that European states should encourage countries in regions of origin to accord refugees their rights under international refugee and human rights law without delay, that the responsibility for hosting and protecting the world's refugee population should be shared equally among states and that states should refrain from assisting one another in ways that breach international legal standards.

ECRE also sets out its view on what rights refugees must enjoy and the underpinning legal standards that must be respected for refugee protection to be considered effective. ECRE also proposes that the right to legal protection should last as long as international protection is required and that particular attention should be given to the needs and rights of vulnerable people.

To access the executive summary see

<http://www.ecre.org/publications/exsum> ECRE WF

To access the full text see

http://www.ecre.org/publications/ECRE_WF

Memo to Austrian presidency: ECRE calls for cooperation on refugee protection

ECRE has issued a memorandum on priorities for the Austrian Presidency, calling for greater cooperation on refugee protection. The memorandum suggests a number of ways in which member states can cooperate to improve the quality of decision-making on asylum claims and urges the Austrian Presidency to ensure that forthcoming work on reinforced cooperation does not lead to a repetition of the sharing of worst practice seen in negotiations on the asylum procedures directive. Looking ahead to the forthcoming review of the Dublin II Regulation, ECRE invites the Presidency to remedy the flaws in its implementation and to begin a debate about replacing the Regulation with a fairer, more efficient system based on responsibility sharing and meeting the needs of individual refugees as well as member states. On the external dimension, ECRE's recommendations include that the EU resettles refugees under both Regional Protection Programmes, so that its strategic use can be properly evaluated before further consideration of the merits of an EU wide scheme in 2007. ECRE calls for the insertion into the proposed

directive on returns of an obligation on member states to monitor and report on the safety of asylum seekers who have been returned. Lastly, the Presidency is urged to ensure that any negotiations on a forthcoming proposal on long term residence status for persons in need of protection result in a text that is consistent with refugees' rights under international law and with the Union's objectives for integration.

ECRE's memorandum is available at www.ecre.org

EUROPEAN COUNCIL

European Council adopted global approach to migration

The European Council of 15 and 16 December adopted a "Global approach to migration: Priority actions focusing on Africa and the Mediterranean". Annexed to the Council conclusions, the paper covers: strengthening cooperation and action between Member States; increasing dialogue and cooperation with African states; increasing dialogue and cooperation with neighbouring countries covering the entire Mediterranean region and questions of funding and implementation. It follows the Commission's follow up to the Hampton Court summit, "Priority Actions for responding to the challenges of migration", of 30 November.

Actions listed in the global approach include a call to FRONTEX, the external borders agency, to present a risk analysis on Africa by May 2006 and to explore the technical feasibility of establishing a surveillance system covering the whole southern maritime border of the EU and the Mediterranean Sea by the end of 2006. Regional networks of Immigration Liaison Officers (ILOs) will be established in 2006, as well as "rapid reaction teams" of national experts to provide technical and operational assistance at times of high influxes of migrants.

The feasibility of a "migration routes initiative" will be explored, which will involve operational cooperation between countries of origin, transit and destination. By spring 2006, key sub-Saharan African states will be engaged in an enhanced dialogue on the basis of Article 13 of the Cotonou Agreement, covering issues ranging from the integration of legal migrants to return and the effective implementation of readmission obligations.

A pilot Regional Protection Programme (RPP) involving Tanzania will be established as early as possible in 2006, overseen by a steering group. Based on findings from the pilot, plans for further programmes in Africa will be developed. An EU-Africa Ministerial Conference in Morocco and a Conference on migration and development in Brussels will be organised in 2006. Regarding work with neighbouring countries, priority is given to working with three countries: Morocco (implement projects to combat trafficking and conclude negotiations of the EC-Morocco readmission agreement as early as possible); Algeria (hold a first meeting in early 2006 to take forward cooperation on the basis of the migration provisions of the EC-Algeria Association Agreement and begin the negotiation of readmission agreement) and Libya (conclude the work to agree the EU-Libya Action Plan on migration as early as possible in 2006 and implement projects as soon as possible thereafter). A conference on "The role of internal security in relations between the EU and its neighbours" will be held in Vienna in May 2006 and a EuroMed Ministerial meeting on migration is expected in 2006.

In relation to funding, the European Council welcomed the increased priority being given to migration and the Commission's intention to intensify its financial assistance to third countries in migration-related areas, including by an allocation of up to 3% of the European Neighbourhood and Partnership Instrument (ENPI). The European Council also underlined that adequate resources for the thematic programme for cooperation with third countries in the areas of migration and asylum under the future financial perspectives should be ensured with a sufficiently flexible means of disbursing funding quickly in cases of serious and urgent need.

The European Council also adopted the EU strategy "The EU and Africa: Towards a Strategic Partnership" as called for at its June 2005 meeting (doc. 15702/1/05 REV 1). Building on the Cairo Summit, it stressed the importance of enhanced EU-Africa political dialogue, including holding a second EU/Africa Summit in Lisbon as soon as possible, and agreed to review regularly, starting in 2006, progress on the implementation of the Strategy, taking into account the conclusions adopted by the Council on 21 November 2005.

Access the Council Conclusions at:

http://ue.eu.int/ueDocs/cms_Data/docs/pressData/en/ec/87642.pdf

Austrian Presidency priorities in the area of asylum and migration

According to its website, Austrian Presidency priorities include:

1. Work on an EU asylum system, EU migration policy
2. Integrated external-border management
3. Assessment of existing legal documents.

Specifically, the Presidency will work towards the creation of a common EU asylum system by:

1. Enhancing practical cooperation between member states,
2. Improving the exchange of information on countries of origin and
3. Working on a plan for “EU support team”.

Co-operation with non-member countries on asylum issues is also on the agenda, including pilot projects for protection in regions of origin. Finally the Presidency will push for the introduction of visa-application offices and an effective return policy.

To access the Austrian Presidency priorities see: http://www.eu2006.at/en/Policy_Areas/Justice_and_Home_Affairs

Austria-Finland work programme

The Austrian and Finnish Presidencies adopted on 19 December a joint programme for their successive EU presidencies in 2006, which specifies action strategies in the area of freedom, security and justice.

A key priority will be the mid-term review of the Hague Programme, which will evaluate the “progress and coherence of the programme and if necessary adjust its priorities”. Taking into account this evaluation the Council will proceed with the establishment of a common asylum procedure based on legislative proposals put down by the Commission.

The Council will also discuss the proposed returns directive, and aim to strengthen Union action in the area of readmission of third country nationals who are illegally residing in the EU. Border control management will be enforced within the framework of the European Borders Agency.

In relation to external relations strategy, the countries of the Western Balkans and the European

Neighbourhood Policy will play a central role during the 2006 presidencies according to the work programme.

To access the joint work programme see: <http://www.eu2006.at/includes/Download>

Council of the EU

21 November General Affairs Council adopted conclusions on migration and external relations

The General Affairs and External Relations Council (GAERC) restated “the value of joined up working in the field of migration and external relations across interior affairs, foreign affairs and development” in Brussels on 21 November 2005. Adopting conclusions on migration and external relations, the Council recognised “the need to protect the human rights of migrants, particularly women.” The Council also welcomed the Commission’s communication on migration and development released on 1 September and invited the Commission to “establish appropriate arrangements for Member State experts on migration and on development” to continue examining the Communication and to “make migration and development issues an integral part of the dialogue, partnership and cooperation” with interested parties. In relation to the Commission’s Communication on the monitoring and evaluation mechanism of third countries in the field of the fight against illegal immigration of 28 July 2005, the Council “agrees that it is important to measure the effectiveness of cooperation to combat illegal immigration, and to highlight the areas where further work is necessary.” The Commission was asked to present its next report by December 2006. The Council also supported “the increased focus on migration within the framework of the Barcelona Process in order to promote a comprehensive approach to the efficient management of migration flows”. It invited the Commission to analyse the recommendations of the Global Commission on International Migration (GCIM) to “serve as a contribution to the EU’s input into the UN High Level Dialogue on migration issues, including return management, between the EU and its neighbours”.

Access the 21 November Council Conclusions at: http://ue.eu.int/ueDocs/cms_Data/docs/pressData/en/gena/87077.pdf

22 November General Affairs Council approved Commission's Strategy for Africa

In its Conclusions of 22 November the General Affairs and External Relations Council (GEARC) welcomed a Commission Communication on an "EU Strategy for Africa: Towards a Euro-African pact to accelerate Africa's development". It also welcomed a report on a Development Strategy for Africa by the European Parliament. The Council agreed that the strategy for Africa aims mainly to create a strategic partnership for security and development between the EU and Africa between now and 2015. It will focus attention on: peace and security, human rights, governance, economic growth and regional integration and trade, environment, development assistance, investing in people and migration.

On migration, the Council resolved to engage in a balanced dialogue on the broad range of migration issues, in partnership with the African Union, regional organisations and African states; to build capacity for better management of migration, including providing technical and financial assistance; to address the root causes of migration, such as poverty and insecurity and to combat smuggling and trafficking in human beings and illegal immigration, including implementing readmission obligations, as provided for in Article 13 of the Cotonou Agreement. The Council also agreed to strengthen protection for displaced persons and refugees and their access to durable solutions, in accordance with the relevant international instruments.

Access the 22 November Council Conclusions on a Strategy for Africa:

http://ue.eu.int/uedocs/cms_Data/docs/pressdata/en/gena/87089.pdf

Commission Communication on an EU Strategy for Africa: Towards a Euro-African pact to accelerate Africa's development:

http://europa.eu.int/comm/development/body/communications/docs/eu_strategy_for_africa_12_10_2005_en.pdf

EU-Morocco Association Council discusses immigration

The EU and Morocco held their fifth Association Council in Brussels on 22 November against a backdrop dominated both by the Euromed Summit of Barcelona and the issue of immigration. The meeting

reviewed progress on a European Neighbourhood Policy Action Plan, launched by the EU and Morocco earlier in 2005, which sets out a set of priorities for the next three years. The "swift conclusion of a readmission agreement with Morocco" was also mentioned. Moroccan officials said Morocco was taking "considerable measures" to fight illegal immigration, "which is costing it dearly in financial terms".

Statement by the European Union, 22 November 2005:

<http://europa.eu.int/rapid/pressReleasesAction.do?reference=PRES/05/308&format=HTML&aged=0&language=EN&guiLanguage=en>

Euro-Med summit in Barcelona

Meeting in Barcelona on 27-28 November to celebrate its 10th anniversary, the Partnership adopted a five-year work programme which includes a chapter on migration, social integration, justice and security. Specifically, the partnership agreed to reduce significantly the number of illegal immigrants and cooperate in negotiating readmission agreements, reinforcing judicial cooperation in cross-border issues, promoting legal migration opportunities and holding a ministerial meeting to discuss all issues relating to migration. The summit also adopted a code of conduct on the fight against terrorism, which states that asylum would be refused to terrorists in accordance with international law. Finally the Euro-med Partners welcomed the organising of a Euro-African Conference on migration.

Ahead of the summit, Amnesty International called upon the leaders of the 35 states that comprise the partnership to "renew their commitment to promote human rights in their own countries and across the wider region". "Amnesty International recommends that efforts to control migration must be in accordance with international standards of refugee and migrants' rights protection, "in order to revive the original promises of the process". It argues that the EU should develop a comprehensive approach to migration respecting the integrity of the international refugee protection system as well as the basic human rights of all migrants, regardless of their legal situation. Assessing the impact of EU policies on neighboring countries, Amnesty warns that "the manner in which the "fight against illegal immigration" is conducted risks exacerbating rather

than alleviating the problems associated with irregular migration". The absence of "real solidarity", and "abusive practices" inhibit progress towards the goal of "seeking durable solutions and tackling its root causes". Amnesty suggests that the Barcelona Process should be used as a framework to develop a sustained and open dialogue on 'regional protection'. Central to this process is the debate on the definition of what constitutes effective protection and who will be in charge of assessing refugee needs.

To access the "Five year work programme" see:

<http://www.eu2005.gov.uk/servlet>

To access "Ten years of EUROMED: time to end the human rights deficit", Amnesty International EU Office, see:

<http://www.amnesty-eu.org/>

12 December Strategy on JHA external dimension adopted

The General Affairs and External Relations (GAEC) Council adopted a Strategy for the External Dimension of the area of Global Freedom, Security and Justice (15446/05) on 12 December. The strategy identifies key thematic priorities as: the threat of terrorism; organised crime and the challenge of managing migration flows. It describes underlying principles for the EU's engagement with third countries on JHA issues. This work has to be "done in partnership with third countries and with an aim to strengthen the rule of law and promote human rights and the respect for international obligations". Finally, the strategy sets out some specific priority issues for action in 2006, including: counter-terrorism co-operation with North Africa; drugs work with Afghanistan and countries on the trafficking route to Europe; migration work with Africa; work with the Western Balkans on organised crime and corruption, and with Russia on security and migration issues.

The JHA Council had approved the Strategy on 1 December.

Access the strategy at:

<http://register.consilium.eu.int/pdf/en/05/st15/st15446.en05.pdf>

12 December General affairs Council conclusions, at page 31:

http://ue.eu.int/ueDocs/cms_Data/docs/pressData/en/gena/87502.pdf

1 December Council adopted conclusions on Integration

The JHA Council adopted on 1 December, Conclusions on a common agenda on integration, following the Commission's communication of 1 September. The Council "acknowledges the importance of defining a framework at European level for the integration of legally residing third-country nationals in all aspects of society". It endorsed the Commission's work with the network of national contact points on integration, supported further editions of the handbook on integration and set a target of the end of 2006 for the first phase of a web site. A European Integration Forum "could provide added value as a complementary source of information and consultation". Ministerial conferences on integration will be held "regularly, ideally on an annual basis", and will be "enhanced as necessary" by the Annual Report on Migration and Integration.

The Conclusions are included in the results of Council, at page 36:

http://ue.eu.int/uedocs/cms_Data/docs/pressdata/en/jha/87292.pdf

1 December Council adopted Procedures Directive

On 1 December the Justice and Home Affairs Council adopted, without debate, a proposal for a directive setting minimum standards on asylum procedures. For Franco Frattini, Commissioner for Justice and Home Affairs, it was "a major milestone": the Parliament's "new role" in the decision-making procedure would assist in raising standards and in "enabling the EU to show more ambition in deciding on a fully-fledged common European Asylum System". In a press notice, ECRE pointed to "alarming provisions" in the directive such as the obligation imposed on states to regard as manifestly unfounded applications from nationals of 'safe countries', the scope for states to deny access to the asylum procedure to asylum seekers coming through 'super-safe third countries', and the failure to properly guarantee basic rights including to remain on the territory pending an appeal, to receive legal advice and to have access to a qualified and impartial interpreter. For ECRE member, Pro Asyl, this was a "sad day for Europe" and a "backward step for refugee protection".

In a press release on 2 December UNHCR warned that the directive could lead to a “serious downgrading of asylum standards” and of breaches on international refugee law if additional safeguards were not introduced. The agency raised its concerns over particular provisions in the directive such as allowing member states to designate safe third countries outside the EU where asylum seekers can be returned without having their asylum claim heard, failing to secure non-suspensive appeals, and inserting “restrictive and highly controversial national legislation” from one or two member states into the legislation of all the 25 member states.

The Council of Europe also criticized the asylum procedures directive, following its adoption. The Committee on Migration, Refugees and Population of the Council of Europe Parliamentary Assembly (PACE) said the Directive had collected together dubious practices from states across Europe and legitimized them. In a declaration adopted in Paris on 9 December, the Committee expressed its deep concern over the way in which accelerated asylum procedures are developing in Europe. The Committee called on member states of the Council of Europe to reverse the tendency of favoring speed over fairness in asylum procedures. “Accelerated procedures, leading to allegations of *refoulement* of asylum seekers, are increasingly used across Europe. The return of those arriving on the Italian island of Lampedusa, or the return of those who have managed to scale the protective barriers of the Spanish enclaves of Ceuta and Melilla, are two of the most publicised examples of 2005 of concern to the committee”.

The Standing Committee of experts on international immigration, refugees and criminal law, also known as the Meijers Committee, has written to the European Parliament (EP) questioning the legality of the asylum procedures directive and expressing its support for any application that might be brought by the parliament to the Court of Justice (ECJ) for annulment of the directive. The Standing Committee argues that the obligation on member states to consider applications as unfounded where the third country is considered safe, goes beyond setting a “minimum standard” and therefore rests outside EU competence. The Committee also argues that allowing member states to expel applicants to third countries, if certain provisions

apply in that country, without prior examination of their claim breaches article 3 of the European Convention on Human Rights (ECHR). Also, the fact that the safe countries list should be adopted only after consulting the EP and not through the co-decision process, breaches the Treaty of European Community provisions stating that any measure on procedures for the granting of asylum are to be adopted according to co-decision. Finally the Committee says that an annulment procedure is advisable especially since the alternative way to challenge the directive, through referral of preliminary questions to the ECJ by national courts, is a relatively long one.

The asylum procedures directive was published in the Official Journal on 13 December.

Directive 2005/85 on asylum procedures published at OJ:

http://europa.eu.int/eur-lex/lex/LexUriServ/site/en/oj/2005/l_326/l_32620051213en00130034.pdf

To access the UNHCR press release see:

www.unhcr.org/press-releases

To access Meijers Committee letter:

<http://www.statewatch.org/news/2005/dec/meijers-comm-asylum-procedures.pdf>

Amnesty called for legal guarantees in EU-Morocco re-admission agreement

In a letter sent to the Commission prior to the 1 December JHA Council, Amnesty International raised the issue of EU-Morocco cooperation in relation to human rights protection of asylum seekers and migrants. It accused the EU of maintaining a “purely defensive approach towards irregular migration” and not giving adequate attention to refugee protection and migrants rights. Amnesty reiterated “its fears that the measures proposed by the Commission to fight ‘illegal immigration’ risk exacerbating rather than alleviating the problems associated with irregular migration” and urged the EU to press the authorities of Morocco and Spain to ensure that thorough, prompt, independent and impartial investigations are conducted in relation to people injured or killed trying to cross the fence. Amnesty called for the EU to be vigilant of the legal guarantees to be inserted in the EU-Morocco re-admission agreement. The Hague Programme stipulates that support for cooperation on migration issues will be provided to those countries who

demonstrate a genuine commitment to fulfil their obligations under the Geneva Convention.

The letter “Future EU-Morocco co-operation in the aftermath of the crisis in the Spanish enclaves” is available at: <http://www.aieu.be/>

EU-Ukraine Summit

EU leaders at the EU-Ukraine meeting on 1 December in Kiev welcomed “deeper and stronger” relations with Ukraine in the area of justice and home affairs. They stressed the importance of Ukraine’s decision to continue visa-free travel to European citizens and noted the progress made on negotiations for the completion of a readmission agreement. The Commission was given authorisation by a Council decision adopted during the General Affairs Council on 7 November to start negotiations on a EU – Ukraine visa facilitation agreement.

The leaders also welcomed the launch on the 30 November of an EU Border Assistance Mission on the Ukraine-Moldova borders. 16 member states will give advice and training to local officers on preventing smuggling and trafficking. The two year project will have an € million budget. The EU said that “substantial further funds would be available” for Ukraine to support projects concerning migration management under the Aeneas scheme.

To access the joint statement:

<http://europa.eu.int/rapid/pressReleasesAction.do?reference=PRES/05/337&format=HTML&aged=0&language=EN&guiLanguage=en>

Order of rotating Presidency until 2018

On 12 December the GAERC Council adopted a Decision establishing the order of the Presidency of the Council until June 2018. The decision was published in the Official Journal on 15 December (OJ L 328/60).

Council Decision determining the order in which the office of President of the Council shall be held (2005/902/EC, Euratom):

http://europa.eu.int/eur-lex/lex/LexUriServ/site/en/oj/2005/l_328/l_32820051215en00600061.pdf

Draft agenda for JHA meetings

The Austrian Presidency adopted on 21 December a provisional agenda for the three formal Justice and

Home Affairs (JHA) Council meetings during its Presidency. Asylum-related issues include discussion at the 20-21 February Council of a forthcoming Commission Communication on the establishment of structures involving the national asylum services of the Member States for promoting cooperation. Regional protection programmes, the proposal for a Council decision on the establishment of a mutual information procedure concerning asylum and immigration measures in member states will be discussed at the 27-28 April JHA Council. The returns directive is on the 1-2 June JHA Council agenda.

The press programme for the Vienna informal JHA Council on 12-14 January includes “asylum and migration management” and “implementation of the Strategy for the External Dimension of JHA”.

To access the agenda see:

http://ue.eu.int/uedocs/cms_Data/docs/pressdata/en/fc/87843.pdf

Press programme for January informal JHA:

http://www.eu2006.at/en/News/Press_Releases/January/Jai.html

12-14 January Informal JHA Council

The two main topics on the asylum agenda at the Vienna Informal Justice and Home Affairs Council 13-14 January were enhancing practical cooperation between member states’ asylum services and plans for regional protection programmes.

Practical cooperation

For the Presidency, Austrian Interior Minister Liese Prokop noted that member states will have to coordinate more in order to achieve a common asylum system. A Presidency press release reports ‘broad consensus’ on the need for a common information system on the situation in countries of origin and EU support for member states requiring assistance in the area of asylum/migration in special circumstances. The Commission is expected to adopt a proposal on practical cooperation between member states’ asylum services for debate at the February JHA Council. Commission Vice President Franco Frattini announced that the Commission would put forward a proposal by June 2006 for the creation of emergency “rapid reaction teams” to help member states who “suffer from strong migration pressure”. These teams would

consist of interpreters, doctors and people providing food and would be managed by the border agency, FRONTEX.

Regional Protection Programmes (RPPs)

The Austrian Presidency reports that pilot regional protection projects “are to be developed as quickly as possible and – if possible – launched during the Austrian Presidency”. Mr Frattini was reported as saying that the countries where the programme will be launched (Ukraine, Belarus, Moldova) needed to update their technological capacities and that Tanzania, where the programme will also be carried out, would need to set up a deportation system. In the long term, he said, the programme could be extended to North Africa and the Horn of Africa. Welcoming the proposed RPPs, the UN High Commissioner António Guterres underlined the need for coordination with humanitarian, development and conflict prevention work and stressed that they did not reduce member states’ obligations towards asylum seekers.

Safe countries list

Mr Frattini announced that the Commission would draft a list of safe countries of origin, under the provisions of the asylum procedures Directive. The move was strongly supported by France, as well as the Austrian Presidency. Ms Prokop stated that it was not acceptable within the EU-25 to have totally different treatment of asylum seekers and assessments of third countries. The Council last year abandoned its own attempt to agree a list of safe countries in November 2004, after months of negotiations. Press reports indicate some confusion in the debate between safe countries of origin, safe third countries, RPPs and older UK proposals for processing asylum seekers’ claims in ‘zones of protection’.

Returns

Ms Prokop noted that return conditions “must be humane” while suggesting that member states could make more use of their powers to organise joint charter flights for the return of asylum seekers whose claims have been rejected. In a press release following the Council, the Commission said it intended to sign a readmission agreement with Morocco by next June, to start negotiations soon with Algeria and to begin

cooperating with Libya on migration. Contacts are being established with several sub-Saharan countries that “could be interested in co-operating with the European Union in the field of migration”.

To access the Austrian Presidency press release see:

http://www.eu2006.at/en/News/Press_Releases

To access the Commission Press Release see:

http://europa.eu.int/comm/justice_home/news/intro/news_intro_en.htm

Public debates and deliberations during Austrian Presidency

Members of the public will have the chance to witness ministers debating the merits of regional protection programmes during the Justice and Home Affairs Council on 27-28 April. The event appears on a list of “public debates” of the Council to be held during the Austrian Presidency. The Council’s deliberations on the draft regulation on a visa information system (VIS) on 1-2 June will also be open to the public. However, members of the public wishing to take advantage of this move towards greater transparency will have to travel to Luxembourg or Brussels to do so. The public meetings and deliberations held during the Austrian presidency will not be accessible via Internet. They can be followed live on closed circuit television at the Kirchberg European Conference Centre if held in Luxembourg and from the Council building’s Press Conference Room at 175 rue de la Loi if in Brussel. A valid ID will be a requirement for participation and no prior registration is required. More detailed information will be available on the Council’s website a few days before the meetings takes place.

To access information on the public debates see:

http://ue.eu.int/uedocs/cms_Data/docs/pressdata/en/fc/88134.pdf

To access information on the public deliberations see:

http://ue.eu.int/uedocs/cms_Data/docs/pressdata/en/fc/88181.pdf

EUROPEAN COMMISSION

Commission report on European Integration progress

The Commission adopted on 9 November 2005 a series of reports evaluating progress made by Albania, Bosnia-Herzegovina, Serbia-Montenegro and Kosovo

towards European integration, including in the areas of immigration and asylum. Albania and Bosnia-Herzegovina were both found to have shown positive developments in relation to border management, visas, asylum and immigration. Albania had reduced illegal immigration towards the EU, with the exception of Greece, and the report suggests that the EU-Albania readmission agreement signed in April 2005 should be followed up by agreements with countries of origin. Management of asylum cases had begun to improve in relation to procedures, time limits in processing asylum cases and dissemination of proper notification but further amendments were needed since inconsistencies between law on asylum and law on foreigners still exists, according to the report.

Bosnia-Herzegovina took over responsibility for determining refugee status from UNHCR in July 2004. New legislation has been issued, that “meets international standards” the report said and further amendments to the existing legislation on immigration and asylum were proposed on accelerated procedures and withdrawal/cancellation of status. Finding sustainable solutions for people in the country enjoying temporary forms of protection would be a “test” of the country’s capacity in this area, the report said, especially since the country’s asylum services were understaffed.

Serbia-Montenegro on the other hand had shown “no visible progress”. There was no system in place to meet the Geneva Convention requirements or any systematic mechanism to help identify asylum seekers on land, air or sea, so UNHCR was still handling most asylum cases. The report stated that Montenegro had no reception capacity whereas Serbia had one reception centre with limited capacity. Finally the report noted that the twelve readmission agreements initiated so far still needed to be signed, ratified and implemented.

For Kosovo the report found a total absence of a visa and asylum regime. UNMIK provided the only system for regulating the entry of refugees and granting or denying refugee status. The report said “considerable efforts” were required to bring Kosovo into line with EU standards on immigration and asylum policy.

To access the report see:

http://europa.eu.int/comm/enlargement/report_2005/#pcc

Commission proposed interoperability of JLS databases

On 24 November the European Commission put forward proposals aimed, it said, at achieving a higher level of EU internal security. They included:

(a) a proposal for a Council Decision concerning the access for consultation to the Visa Information System (VIS) to authorities of Member States responsible for internal security and to Europol for the purposes of the prevention, detection and investigation of terrorist offences and of other serious criminal offences, and
(b) a communication on the medium- and long-term development of the three common European databases in the field of justice and home affairs: the Schengen Information System (SIS), the Visa Information System (VIS) and EURODAC, the database containing fingerprints of asylum seekers and illegal immigrants . The communication on the medium and long-term development of SIS, VIS and EURODAC (COM/2005/597/final) aims to create synergy between these European databases, with a view to enhancing their effectiveness and their interoperability. Each database, however, has its own legal base and currently, EURODAC, established to support the application of the Dublin system, can only be consulted by asylum services.

The Commission presented both proposals to the ministerial “Mixed Committee” in the margins of the JHA Council on 1 December.

Access the text of the Communication on enhanced interaction between the VIS, SIS II and Eurodac (COM/2005/597/final) at:

http://europa.eu.int/prelex/detail_dossier_real.cfm?CL=en&DosID=193580

Access the Eurodac Regulation at:

<http://europa.eu.int/eur-lex/lex/LexUriServ>

Commission Communication on managing migration flows

On 30 November the Commission adopted a communication laying down actions for improving migration management, following up suggestions made by the informal meeting of the European Council in Hampton Court on 27 October. The communication includes three categories of actions, which were also advocated by Commissioner for Justice and Home Affairs Franco Frattini during his recent visits to Rome

and Madrid: strengthening cooperation and action between member states on migration issues, working with key countries of origin in Africa and working with neighbouring countries.

In relation to increasing cooperation between member states, the communication proposes the launch of a Mediterranean Coastal Patrols Network that will “ensure permanent contact and coordination between member states’ sea border surveillance authorities” and also engage in rescue services if necessary. The communication also refers to Immigration Liaison Officers responsible for liaison with priority countries of origin and transit and to the creation of rapid reaction teams, also mentioned in the conclusions of the 12-14 January Justice and Home Affairs Informal Council, that will be able to provide rapid and technical operational assistance on border control to member states faced with “exceptional migratory pressures or influxes of migrants”.

Under the actions foreseen for EU - Africa cooperation, the communication states that the EU will combat trafficking and illegal immigration including the implementation of readmission obligations, strengthen protection of refugees and displaced people and address root causes of migration. Finally, the communication calls for a JHA-EUROMED meeting between ministers of justice, security, migration and social integration of migrants to take place in 2006 and for the extension of the Coastal Patrols Network to the countries of the Mediterranean.

The three commissioners involved in the new measures proposed, Commissioner for Justice and Home Affairs Franco Frattini, Commissioner for External Relations and European Neighbourhood Policy Benita Ferrero-Waldner and Commissioner for Development and Humanitarian Aid Louis Michels underlined that the Commission is “determined to tackle the root causes of migration” and that the recent events in Ceuta/Melilla and Lampedusa illustrate that “urgent action is required in relation to managing immigration in the Mediterranean and in particular in Africa”.

Frattini presented the communication to the JHA Council on 1 December. The Commission has said it will report back to the Council on the first results of the suggested initiatives by the end of 2006.

To access the communication see:

<http://europa.eu.int/eur-lex/lex/LexUriServ/site/en/>

[com/2005/com2005_0621en01.pdf](http://europa.eu.int/eur-lex/lex/LexUriServ/site/en/com/2005/com2005_0621en01.pdf)

European Commission launched public debate on the future of the European Migration Network

The Commission has launched a public consultation on the future of the European Migration Network. It adopted on 29 November a Green Paper “On the future of the European Migration Network” (EMN). This network was set up in 2002 to provide the Community and its Member States with objective, reliable and comparable information in the field of asylum and immigration in order to support policy and decision-making in the EU. The launching of the public consultation process was marked by an enlarged, joint conference between the EMN and National Contact Points on Integration on 1 December and will be completed by an expert hearing in March 2006. The Commission will incorporate the findings of this debate in its proposal for a legal basis for a future EMN to be adopted by the end of 2006. The Green Paper consists of an assessment of the current European Migration Network (EMN) under the pilot phase, and of a section that looks into issues related to a future EMN.

Access the Green paper at:

http://www.europa.eu.int/comm/justice_home/doc_centre/immigration/docs/com_2005_606_en.pdf

Commission Communication on NGOs and terrorist financing

The Commission Communication “against terrorist financing through national cooperation and transparency of the non-profit sector” adopted on 29 November includes Recommendations and a Framework for a Code of Conduct for Non-Profit Organisations (NPOs). The communication argues that NPOs are “vulnerable” to terrorist financing and action is needed to reduce the “risk of abuse”. It recommends member states to increase oversight of their non-profit sector and suggests ways of encouraging compliance with the code, such as privileged tax status and award of public grants. It also promotes the idea of investigating abuses of NPOs. The recommended code of conduct incorporates ways in which transparency and accountability will be guaranteed such as obliging NPOs to follow bookkeeping practice, produce annual financial reports

and keep accurate audit trails of funds. The communication is a follow up to the Commission's public consultation that ended on 26 August. The Commission will set up an informal contact group during the first half of 2006 that will organize a conference to consider ways for further implementation of the communication.

Access the communication at:

http://europa.eu.int/eur-lex/lex/LexUriServ/site/en/com/2005/com2005_0620en01.pdf

Commission's work plan for January-March

The Commission has published a work plan of all the proposals it expects to adopt between January and March 2006. They include some overdue items from 2005. The work plan includes adoption of a proposal to extend the long-term resident's directive to refugees and person with subsidiary protection, the proposal amending the common consular instructions relating to biometrics and uniform format for visas, and an agreement with Russia facilitating short stay visas. A proposal to amend the European Refugee Fund for the 2005-2010 period in order to "reinforce asylum systems and reception conditions in member states in relation to some categories of third country nationals" and the adoption of the ARGO programme have been added. A new initiative, not mentioned in any previous work plans, is a proposal for negotiations with Macedonia for a treaty on visa facilitation and a treaty on readmission.

To access the text see:

http://www.europa.eu.int/comm/off/work_programme/rolling_programme/agenda_planning_3_month_forecast.pdf

Commission adopted roadmap on legal migration

On 21 December the Commission adopted a "Policy Plan on Legal Migration", jointly presented by Commissioner for Justice and Home Affairs Franco Frattini and Commissioner for Employment, Social Affairs and Equal Opportunities, Vladimir Špidla.

The plan addresses four areas for action: a legislative section to regulate the conditions of entry and residence of third-country nationals in employment; actions and policies to foster knowledge building and sharing of information in the immigration field; policies and funding

aimed at supporting and improving the integration of economic migrants and their dependents in the labour market and in the host society; and measures aimed at a more efficient management of international immigration flows which need the cooperation and the support of immigrants' countries of origin.

To access the press release see:

<http://europa.eu.int/rapid/pressReleasesAction.do?reference=IP/05/1664&format=HTML&aged=0&language=EN&guiLanguage=en>
Policy Plan on Legal Migration, COM(2005) 669 final, 21.12.2005:

http://europa.eu.int/eur-lex/lex/LexUriServ/site/en/com/2005/com2005_0669en01.pdf

Call for proposals for AENEAS Programme

The Commission put out a call for proposals on 23 December for funding under the AENEAS Programme for "financial and technical assistance to third countries in the field of migration and asylum". The budget line is 40.35 million EUROS and the closing date is 28 March 2006. The general objective of the new instrument is to provide "financial and technical assistance to third countries in support of their efforts to ensure more effective management of all aspects of migration flows". The priorities supported by the Commission are development of legal migration, drafting of legislation and development of national practices in relation to asylum, readmission and durable reintegration of returnees, and stemming illegal migration.

To apply see:

<http://europa.eu.int/comm/europeaid/cgi/frame12.pl>

Comments on returns directive

On 24 December UNHCR published its observations on the proposed returns directive. UNHCR notes that important safeguards applicable to persons in transit zones are missing from the directive and suggests that all of the directive provisions should be applicable without distinction. The agency recommends that asylum-seekers on whose application a final decision has not been issued at first stage or at appeal should be excluded from the "illegal stay" definition. In relation to the re-entry ban, UNHCR proposed that it should be discretionary, subject to an individual examination and remedies should be available in order to challenge it. The six month limit for detention, although a

“welcomed acknowledgement that pre-detention removal should be limited”, raises concerns that it could affect countries with shorter detention periods.

UNHCR recommends that collective expulsions should be prohibited and that removal should be postponed when an asylum seeker has made an appeal. In terms of limiting the use of force only where is necessary, UNCHR says that greater clarity and binding standards are required and also suggests that a right to material assistance pending return should be guaranteed. Finally, in relation to children’s interests, the agency says that no return should take place before the state assess what is in the child’s best interest and that children who have not been accused or convicted of a criminal offence should never be held in custody.

The Refugee Council and Amnesty International UK submitted comments on the implications of the returns directive for asylum seekers to the House of Lords Committee on the European Union Inquiry into the Returns Directive in December.

The two agencies are concerned that negotiations prior to the adoption of the directive will see standards “significantly lowered” due to the “serious deficiencies” present in the asylum systems of member states. Concerns are also expressed in relation to excluding transit zones from the scope of the directive and the fact that enforced returns would be allowed to transit countries even where there is no meaningful link for a person in that country. The four week notice period for return is considered too short and the agencies also oppose the directive’s inclusion of a re-entry ban, especially since it can apply to people returning voluntarily. The agencies argue that legal remedies against such a ban should be included in the directive. The agencies suggest that the Council of Europe’s guidelines on forced return should be used to identify coercive measures that should be prohibited under the directive. The agencies also advocate in favour of appeals having suspensive effect, and for temporary custody applying only immediately prior to return and for the sole purpose of return. In relation to the six month limit for detention, the agencies state that this is “unacceptably long” and wish to see states sharing good practices such as France’s 32-day maximum.

The NGOs underline that families should never be separated because of return and that the best interest of the child should always be determined by child care

specialists.

To access UNHCR comments see:

<http://www.unhcr.org/cgi-bin/texis/vtx/protect>

To access the RC and AI document see:

http://www.refugeecouncil.org.uk/downloads/policy_briefings/EU_Returns_dec05.pdf

Commission launched information network on irregular migration

The European Commission has adopted a Decision laying down detailed rules for the implementation of the Council Decision establishing a secure web-based Information and Coordination Network for Member States’ Migration Management Services (ICONET). According to a Commission press release of 13 January, the purpose of this Decision is to ensure an effective development of this network and in particular the rapid exchange of relevant information required by the Member States’ Migration Management Services in their fight against illegal immigration. The network will enable Member States to transmit confidentially early warning messages relating to illegal immigration. The network could also be a tool for enhancing co-operation among immigration liaison officers posted abroad by the Member States. It is not envisaged – for technical and legal reasons – to exchange personal data via the Network.

For more information see:

http://europa.eu.int/comm/justice_home/news/intro/news_intro_en.htm

To access the Council Decision of 16 March 2005 establishing a secure web-based Information and Coordination Network for Member States’ Migration Management Services:

http://europa.eu.int/eur-lex/lex/LexUriServ/site/en/oj/2005/l_083/l_08320050401en00480051.pdf

Commission approves thematic programme on migration and asylum

The Commission approved on 25 January a new funding programme on migration and asylum to replace AENEAS. One of seven new thematic programmes in the framework of the reform of the Commission’s External Actions, this programme will “build on the experience carried out through the AENEAS programme” and will foster the links between migration and development; promote well-managed labour

migration; fight illegal migration and facilitate the readmission of irregular immigrants; protect migrants against exploitation and exclusion; and promote asylum and international protection. Unlike AENEAS, the new programme will not cover countries that have a prospect of joining the EU membership perspective and will support in certain cases the implementation of readmission agreements signed between third countries. The new programme is intended to be more flexible and thus more able to react to “any unforeseen or urgent needs or circumstances”.

Speaking at a conference on 24 January, Benita Ferrero-Waldner, Commissioner for External Relations and European Neighbouring policy, said that the EU should fight those who organise illegal immigration and not the migrants themselves. The new programme represented a move away from policies aimed at keeping migrants out: “Fortress Europe is no longer an option. What we need is effective and balanced migration management.”

The Commissioner also listed a number of EU actions in relation to migration and asylum which illustrate EU commitment in this area, such as the negotiation of readmission agreements with Morocco and Ukraine and the €8 million border assistance fund providing job training and advice to Moldavian and Ukrainian officials for improving migration management.

A group of leading EU NGOs has released a joint statement on the rationalisation of the EC’s thematic funding instruments in the field of external relations. While supporting the idea of rationalising the external funding instruments, the NGOs argue that the proposals must adhere to the following principles:

1. Rationalisation of the thematic programmes should lead to more efficient and effective delivery of aid
2. Rationalisation of the thematic programmes should be coherent with geographic and other programmes and instruments
3. Rationalisation of the thematic programmes should be consistent with the new Development Policy Statement and other EU development principles
4. Each thematic programme should address the cross cutting issues of Gender, Children, Human Rights (including the right to food), HIV and AIDS, and Environment.

To access the paper see:

http://europa.eu.int/eur-lex/lex/LexUriServ/site/en/com/2006/com2006_0026en01.pdf

Joint EU NGO statement on the rationalisation of the EC’s thematic funding instruments in the field of external relations:

<http://www.concordeurope.org/>

Call for research projects on migration

The Commission’s Directorate General for Research and Technological Development has issued a call for proposals for research on migration in its programme “Scientific Support to Policies”. Projects will be funded that carry out comparative research into the “factors underlying migration and refugee flows, including illegal immigration and trafficking in human beings”. The research should develop “better knowledge of legal and illegal migration flows towards the EU and the transition paths of migrant communities from irregularity into regularity and vice versa”. The call was published on 22 December 2005, the deadline for submissions is 22 March 2006 and the budget €7 million.

To apply see:

http://fp6.cordis.lu/index.cfm?fuseaction=UserSite.FP6DetailsCallPage&call_id=268

Commission paper on Western Balkans

The European Commission’s Communication on “Western Balkans on the road to the EU: consolidating stability and raising prosperity”, adopted on 27 January, includes visa facilitation measures and an EU schedule on readmission agreements.

The Communication states that liberalisation of the visa regime depends on reform in areas such as corruption and illegal immigration and notes that although lifting visa requirements “is a long-term issue”, facilitating visa issuing procedures is possible as the example of Croatia that is already applying a visa free regime shows. The Commission will begin “exploratory talks” on visa policies in the Western Balkans during 2006, starting with the former Yugoslav Republic of Macedonia. The Commission points out that talks will be carried out in line with progress in the EU’s readmission agreements strategy. In the spring of this year, the Commission will also propose draft legislation to simplify and accelerate procedures for issuing visas at local consulates. Finally, the Communication calls for the Sarajevo Declaration

of January 2005, which commits Bosnia and Herzegovina, Croatia and Serbia and Montenegro to resolve the issue of the return of refugees, to be pursued further.

The Commission's Communication was presented at the General Affairs and External Relations Council (GEARG) on 30 January which adopted without debate the priorities and conditions for European partnerships with Albania, Bosnia-Herzegovina, the former Yugoslav Republic of Macedonia (FYROM), Serbia-Montenegro and Kosovo based on the Commission's annual report of 9 November 2005. The Communication will also help prepare for the meeting of EU and Western Balkans foreign ministers planned by the Austrian Presidency in Salzburg from 10-11 March.

To access the Communication see:

http://europa.eu.int/eur-lex/lex/LexUriServ/site/en/com/2006/com2006_0027en01.pdf

EUROPEAN PARLIAMENT

LIBE Discuss Returns Directive

On 24 November the Committee on Civil Liberties, Justice and Home Affairs (LIBE) of the European Parliament had a first exchange of views on the proposal for a returns directive adopted by the Commission on 1 September. Rapporteur, Manfred Weber, MEP (EPP) said that the Parliament should say "yes" to the proposed directive and underlined its own "strong negotiating role" in the co-decision procedure. Weber pointed to a number of issues to be discussed including the six months detention limit, the re-entry ban, the issue of proportionate force used in detention, incentives for voluntary returns and the treatment of children and other vulnerable individuals. Mr Weber also argued that a "compromise needs to be achieved" between the parties involved in this procedure since the political character of this directive stirs up "confrontations". He noted that the Council questioned whether the directive was necessary at all. A number of MEPs were concerned at the low level of human rights safeguards, such as the scope for States to detain people for up to six months, including in ordinary prisons, if the state has no immigration detention facilities, although detainees would have to be kept separate from common criminals. French

shadow rapporteur MEP Adeline Hazan, from the Socialist group found it "worrying" that separate provisions are not proposed, to mirror the different reasons for illegal residence in the EU; the directive could also apply, for example, to refugees whose status has been withdrawn. Ms Hazan called for transit zones not to be excluded from the directive's scope, for appeals always to have suspensive effect and for priority to be given to voluntary returns. Italian Green Giusto Catania MEP argued that there had been a "mistaken starting point" in relation to the proposed directive since the EU should not have been attempting to harmonise returns unless common provisions on access had been agreed. Italian Christian Democrat Stephano Zappala, vice-chair of the committee asked the Commission to supply the Parliament with statistics and case studies that demonstrate the number of immigrants arriving in the EU and the reasons they immigrate, the numbers of those returned and the related costs. No date was set for adoption of the report by the Committee.

EP delegation to Libya

The Maltese Christian Democrat MEP Simon Busuttil led a European Parliament's Subcommittee on Human Rights fact-finding mission to Libya on 5-6 December. The purpose of the six person delegation was to verify "what happens to illegal immigrants returned by Italy, evaluating the situation of those kept in Libyan detention centres and identifying practical ways of cooperating with Libya to manage migration flows". The mission found that illegal immigrants sent by Italy are repatriated to their country of origin, after their nationality has been established by the relevant embassy. If nationality cannot be established then the immigrant will remain in detention camps. The mission also discovered during their visit to detention camps at least two Ethiopians who claimed to be refugees. The leader of the mission said that "Libya lacks organisation and strategy to deal with immigration problems" and this "needs to be seen as a common problem for the EU".

The Libyan director for immigration confirmed to the mission that Italy had financed the construction of detention centres near Tripoli and promised to fund two further centres. Libya had signed a cooperation agreement with Italy, the director said, while other bilateral agreements are also being negotiated with

France, Malta and Spain. Interior Minister Nasr Mabruk Abdullah told the delegation that “97% of the immigrants who cross Libya are here for economic reasons”, though he admitted that the other 3% were people whose lives were at risk and who needed special protection. The delegation also raised concerns that Libya was not a party to the Geneva Convention. Some progress was noted by the MEPs who found that the authorities were “more cooperative” since the previous EU delegation visit in April and that there was a possibility that legislation on refugees would be drafted.

Just before the parliamentary visit, EU Commissioner of Justice and Home Affairs, Franco Frattini had announced at the JHA Council of 1-2 December 2005 that the European Commission intended to conclude a technical agreement with Libya on cooperation in the fight against illegal immigration. The conclusions of the 3 June 2005 JHA Council state that EU cooperation with Libya is conditional on the country’s respect for human rights but do not require it to sign the 1951 Geneva Convention.

A Human Rights Watch report released on 25 January suggested that, although Libya had taken steps to improve respect for human rights, the situation was still far from satisfactory. Executive director Kenneth Roth said, “there is still a long way to go before coming into line with international human rights standards”. Politically motivated detention gives rise to “grave concern”, while torture continues to be practised in prisons and the government still bans political groups and parties, non-state-run media and independent civic organisations working in the human rights area. The report also criticises American and European governments, which sometimes criticise Libya’s practices but are reluctant to jeopardise the security and economic ties they have built with the country.

To access EP press release see:

http://www.europarl.eu.int/news/expert/infopress_page/029-3243-339-12-49-903-20051206IPR03242-05-12-2005-2005—false/default_en.htm

To access the HRW report see:

<http://hrw.org/reports/2006/libya0106/>

EP adopted reports on Dublin II and Eurodac

On 13 December 2005, the European Parliament

adopted two reports by the French Socialist MEP Martine Roure, on proposed legislation. One aims to extend the application of the Dublin II and Eurodac regulations to Denmark, and the other aims to conclude a Protocol of Agreement between the European Community, Iceland and Norway on Dublin II.

To access agreement on asylum applications and Eurodac (Denmark):

<http://www.europarl.eu.int/omk/sipade3?TYPE-D O C = T A & R E F = P 6 - T A - 2 0 0 5 - 0 4 9 0 & M O D E = S I P & L = E N & L S T D O C = N>

Agreement on asylum requests (Iceland and Norway):

<http://www.europarl.eu.int/omk/sipade3?PUBREF=-//EP//TEXT+TA+P6-TA-2005-0491+0+DOC+XML+V0//EN&LEVEL=1&NAV=S&L=EN>

EP resolution over human rights violations in Chechnya

The EU must play an active role in preventing further human rights violations and putting an end to the climate of impunity in the Republic of Chechnya, the European Parliament (EP) has said. On 19 January, the Parliament adopted a resolution calling on the European Commission and the Council to be more active against “massive violations” of human rights, committed with almost complete impunity, in Chechnya. The Commission and the Council must demand that all appropriate measures be taken so that the rights guaranteed under the European Human Rights Convention, to which Russia is a signatory be fully respected in the Republic of Chechnya. MEPs urged the Council and Commission to confront their responsibilities in the face of the most serious human rights concerns in the immediate neighbourhood of the European Union.

At the same time, the Council and member States should systematically raise the Chechen question, particularly in the new six-monthly EU/Russia consultations on human rights (set up in 2005), which the EP wants to make more effective, more accessible to NGOs and results-oriented.

The EP also called on the Member States to promote, in conformity with international law and on the basis of existing precedents, and with Russian consent, the setting-up of a mixed ad hoc international tribunal for Chechnya to try perpetrators of war crimes and crimes

against humanity committed in the Chechen Republic if the climate of impunity continues to prevail.

The EP regretted that the bill strengthening government control over NGOs in Russia, adopted at the end of December by both parliamentary chambers, was passed so easily.

Access the European Parliament resolution on Chechnya at: <http://www.europarl.eu.int/omk/sipade3?PUBREF=-//EP//TEXT+TA+P6-TA-2006-0026+0+DOC+XML+V0//EN&L=EN&LEVEL=0&NAV=S&SIDOC=Y&SIDOC=N>

EP resolution condemning violence against Sudanese refugees in Egypt

The European Parliament has condemned the violence of the Egyptian police that resulted in the death and injury of more than 2500 Sudanese migrants, refugees and asylum seekers during their evacuation by Egyptian security forces from in front of the United Nations High Commissioner for Refugees (UNHCR) Headquarters on 30 December 2005.

Reportedly, 2000 police officers surrounded the improvised encampment, fired water cannon into the crowd and beat individuals with clubs in order to end the sit-in. Eyewitnesses, the international press and human rights organisations reported over 200 deaths. According to the Egyptian authorities 27 people, all Sudanese and most of them women, children and elderly people, were killed, others were imprisoned and many others were injured.

MEPs asked the Egyptian authorities to halt the forced deportation to Sudan of up to 650 Sudanese nationals, as the group is believed to include asylum seekers and refugees recognised by UNHCR, and to respect the principle of non-*refoulement*.

MEPs also called on the European Commission and the Member States to establish a true partnership with UNHCR by offering both political and financial support to assist the work of UNHCR in Cairo. They stressed that respect for human rights is a fundamental value of the EU-Egypt Association Agreement, saying that the incidents of 30 December represent a serious violation of Article 2 of the Association Agreement. Parliament called on the Council and the Commission to emphasise this issue at the next meeting of the EU-Egypt Association Council and when continuing the EU-Egypt discussions towards a national Action Plan.

Access the joint motion for a resolution at:

<http://www.europarl.eu.int/omk/sipade3?TYPE=DOC= MOTION & REF= P6-RC-2006-0056&MODE=SIP&L=EN>

LIBE Committee delegation visit to Ceuta and Melilla

Following a visit by MEPs to Ceuta and Melilla, the European Parliament's LIBE committee will ask the Spanish authorities to clarify the legal status of migrants between the two fences, the nature of the readmission and cooperation agreement with Morocco and the use of European funding to Morocco. On 24 January, Ms Ewa Klampt (EPP-Germany) presented a report of the visit by a LIBE delegation of 17 MEPs to Ceuta and Melilla on 7-9 December, 2005. The report includes information the delegation obtained from meetings with the Secretary of State, Consuelo Rumi, information gathered from visits to the two cities (mentioning the management of the centres and the reception procedures and conditions) and from interviews with migrants. It also examines the issue of the borders and reports information collected on the events of last August/October. According to the delegation's findings, the temporary holding centre in Melilla, which has a capacity of 480 people, housed 1,650 people on 6 October 2005. During the debate, MEPs agreed that the territory between the inner and the outer fences must be considered to be Spanish territory. Jean Lambert (Greens-UK) asked why Morocco should be expected to take responsibility for stopping people from crossing the EU borders. The Committee adopted the report unanimously.

Before the visit, ECRE and other NGOs had briefed members of the delegation on their concerns regarding the human rights situation of migrants and asylum seekers in Ceuta and Melilla. The NGOs had urged the delegation to seek further information about the implementation of the bilateral readmission agreement concluded between Spain and Morocco. They had also advised the parliamentarians to seek information about the intention of the Spanish government to ratify and implement Protocol 4 of the ECHR, which prohibits the collective expulsion of foreign nationals. Amnesty International and ECRE asked the delegation to investigate further whether migrants are properly informed of their right to seek asylum, whether they

are given access to the refugee status determination procedure and whether their right of access to an interpreter and legal assistance are fully respected. The NGOs recommended that the outcome of the fact-finding mission should be transmitted to the Commission and the Council which should be urged to take it into account in their on-going discussions regarding partnership with Morocco. UNHCR noted that of a group of migrants returned by Spain to Morocco, it had determined three to be refugees from the Ivory Coast. As neither Spain nor Morocco would accept responsibility for them, UNHCR was negotiating with other EU member States to resettle the refugees. The Committee plans further visits to detention centres in other Member States, including Malta, Greece, France, Poland, UK, and Ireland.

MISCELLANEOUS

EPC Conference on The EU and the Western Balkans: Visa, Asylum and Immigration

The European Policy Centre held a conference entitled The EU and the Western Balkans: Visa, Asylum and Immigration on 30 November. Vice President of the European Commission Franco Frattini took the opportunity to announce he will propose a road map in January 2006 for a Commission initiative on short-term visas. He stated he had to respond to an increased security demand from EU citizens, reaffirming that even though visa liberalisation was a European goal, one should keep in mind that it is a long-term objective. On asylum, Frattini noted that Western Balkans countries will have to comply with a quickly growing asylum and immigration EU acquis and that they may have some difficulties to keep up with the speed. He also observed that the EU needs to develop harmonised standards and procedures for a return policy. Udo Janz Deputy Director of UNHCR's Europe bureau, warned against overloading the capacity of the Western Balkans to deal with protection needs. A report by the International Crisis Group published on the eve of the conference warned that future member states' citizens are being marginalised and radicalised by inflexible visa restrictions, with the longer-term consequence of exacerbating regional insecurity.

For more information on the conference see:

<http://www.theepc.net/en/default.asp?TYP=ER&LV=558&PG=ER/EN/detail&AI=558>

EU Visas and the Western Balkans, International Crisis Group:

<http://www.crisisgroup.org/home/index.cfm?id=3809&l=1>

HRW and AI reports on asylum seekers and migrants in Ukraine

In a report issued on 30 November on the eve of the EU-Ukraine summit in Kiev, Human Rights Watch (HRW) claimed that Ukraine regularly subjects migrants and asylum seekers to abuse, including extended detention in appalling conditions, violence, extortion, robbery and forced returns to face torture or persecution. The NGO accused the European Union of exacerbating these problems by pressing Ukraine to prevent migrants from entering the European Union and to accept the return of those who do reach EU territory. The report, based on interviews with more than 150 migrants and asylum seekers in Ukraine and its EU neighbours, Poland, Slovakia and Hungary, maintains that "Ukraine is already incapable of managing the migrants and asylum seekers on its territory. It documents the routine detention of migrants and asylum seekers in "appalling conditions", and the denial of rights such as access to a lawyer and the possibility to apply for release. Asylum seekers from Chechnya are found to be particularly vulnerable, both to abuse at the hands of the Ukrainian police and forced return to Russia, despite the risk of persecution they face in that country. No Chechen has ever been recognised as a refugee in Ukraine; those detained trying to enter the EU are denied access to asylum.

HRW's findings were echoed in an Open Letter from Amnesty International to the UK Presidency of the EU, released on the day of the summit, which drew attention to accounts of torture and ill-treatment in Ukraine, documented in its report, "Ukraine, Time for Action: Torture and Ill-treatment in Police Detention". The report concludes that law enforcement officers continue to extract confessions through force, sometimes resorting to torture. The officers who are under investigation for this treatment are rarely suspended and the victims rarely receive compensation. It calls on the Presidency to put further

pressure on Ukraine to ratify the Optional Protocol to the Convention Against Torture and to ensure that all allegations of torture and ill-treatment are subject to impartial investigations and that a lawyer is present during the investigations.

Human Rights Watch argues that readmission agreements are used by the EU as a tool to transfer migrants and asylum seekers out of the EU territory in violation of human rights and are applied without “adequate procedural safeguards”. It proposes that the EU and its member states should refrain from sending asylum seekers and migrants to Ukraine unless a “clear set of benchmarks” such as legislative improvement are guaranteed. It also proposes that the Ukrainian government should make it possible for every asylum seeker to present their claim fairly and to cease the policy of routine detention.

On the margins of Ukraine: Rights violations against migrants and asylum seekers at the new Eastern Border of the European Union, HRW, is available at:

<http://hrw.org/reports/2005/ukraine1105/>

To access Amnesty International open letter see:

http://www.amnesty-eu.org/static/documents/2005/B507_EU_Ukraine_Summit.pdf

“Ukraine, Time for Action: Torture and Ill-treatment in Police Detention, Amnesty International is available at:

<http://web.amnesty.org/library/Index>

Torture Committee visited Melilla

A delegation of the European Committee for the Prevention of Torture (CPT) of the Council of Europe has visited Melilla to examine interception practices and the treatment of foreign nationals by the Civil Guard on the border between Spain and Morocco. The delegation also examined the situation of persons deprived of their liberty by law enforcement agencies, focusing particularly on access to a lawyer as a fundamental safeguard for the prevention of ill treatment. During its visit of December 2005, the delegation visited law enforcement establishments in Madrid, Almería province and Melilla and conducted interviews with persons who had recently been in the custody of law enforcement agencies. Further, the delegation held discussions with judges and consulted judicial files in order to examine the role of the judiciary in protecting persons in the custody of law enforcement

agencies.

For more information see:

<http://www.cpt.coe.int/documents/esp/2005-12-21-eng.htm>

NGOs highlight protection concerns in Ukraine

Nine Ukrainian NGOs have issued a statement highlighting the inconsistencies between Ukraine’s international commitments to refugee protection and practices such as access to the procedure, lack of material assistance and illegal deportations. The paper was disseminated at a UK Presidency seminar on Transit Migration through the Eastern Neighbourhood on 16 December. The statement includes a number of recommendations to the EU such as increasing financial aid for the provision of humanitarian and material assistance for asylum seekers and refugees, refraining from returning asylum seekers to Ukraine on the basis of the third country safety rule until all asylum seekers are assured a fair procedure for determining their claim and providing help in the development of integration programmes for asylum seekers and refugees in Ukraine. Speaking at the seminar, Phil Douglas, representing the European Commission, said that the EU’s responsibility to correct the imbalance in the international protection regime underlay all related EU discussions since the Thessaloniki Council. The success of the proposed regional protection programme in the Ukraine and neighbouring countries depended, he said, on the quality of projects submitted for funding under the Aeneas programme.

Amnesty International memo to the Austrian Presidency

Amnesty International has presented ten proposals to the Austrian Presidency in a memorandum calling for a comprehensive review of the EU’s human rights policy. The proposals include strengthening protection of the rights of asylum-seekers and migrants and ensuring that the development of Regional Protection Programmes is never a substitute for refugee protection obligations. Amnesty argues that fighting terrorism and irregular migration have become the dominant priorities for the EU, but they have been addressed in ways that show serious human rights shortcomings. Amnesty also calls for the EU to enable the EU Fundamental Rights Agency to address human rights compliance by

Member States.

“Reaffirming the primacy of human rights: Amnesty International’s ten-point programme for the Austrian Presidency of the European Union” can be downloaded from <http://www.amnesty-eu.org>

ENAR memorandum to the Austrian Presidency

The European Network against Racism (ENAR) has submitted a memo to the Austrian Presidency outlining some of its concerns and hopes for the following six months. ENAR looks forward to the mid-term review of The Hague Programme and the corresponding action plan proposed by the Austrian Presidency and urges that the views of the civil society should be taken into consideration for the assessment of the programme. In relation to the Plan on Legal Migration, the agency calls on the Presidency to promote open discussion of the Common Basic Principles of integration with civil society and the European Parliament and to take steps to enhance the protection of vulnerable third country nationals.

To access the memo see:

http://www.enar-eu.org/en/campaign/memo_austria2006_en.pdf

EUMC Migrants, Minorities and Housing report

Migrants face discrimination in obtaining housing. This includes violent physical attacks aimed at deterring minorities from certain neighbourhoods and being denied access to accommodation on the grounds of their skin colour, according to a new report from the EUMC released on 11 January 2006 entitled “Migrant, Minorities and Housing: Expulsion, discrimination, and anti-discrimination”. The report is based on information supplied by EUMC’s national focal points across the EU15. The report also concludes that “integration of minorities in neighbourhoods can become heavily politicised”.

The report was based on information supplied by EUMC’s national focal points and can be found at: <http://eumc.eu.int/eumc/material/pub/comparativestudy/CS-Housing-en.pdf>

Publications, Websites & Events

Publications

Asylum Levels and Trends in Industrialized Countries; Third Quarter, 2005, UNHCR, January 2006

Overview of Asylum Applications Lodged in 31 European and 5 Non-European Countries.
<http://www.unhcr.org/cgi-bin/tehis/vtx/statistics/pendoc.pdf?tbl=STATISTICS&id=43c7d2802>

Berghahn Books – E-Book Announcement

In association with the Refugee Studies Centre in Oxford Berghahn Books have made the Forced Migration Series available in E-book format. The format allows readers to download books by the chapter at \$8.95 per chapter. A brief synopsis of each chapter is provided prior to purchase.

For more information and to see the list of titles available, visit

<http://www.berghahnbooksonline.com/books>

Bosnia and Herzegovina: Behind closed gates: ethnic discrimination in employment, Amnesty International, January 2006

Report by amnesty international, which shows that discrimination in employment is endemic in Bosnia and Herzegovina. Stretching from the period during the war to date it has affected large sectors of society and continues to deny them the right to work and access social care and education. The report makes recommendations and contains two case studies.

<http://web.amnesty.org/library/Index/ENGEUR630012006?open&of=ENG-BIH>

Dispersal of Asylum Seekers Living with HIV, National Aids Trust (NAT), UK January 2006

Report on dispersal of asylum seekers living with HIV in the UK.

http://www.nat.org.uk/documents/Dispersal_of_asylum_seekers_living_with_HIV.pdf

Experiences of Gömda in Sweden: Exclusion from Healthcare for Immigrants Living without Legal Status

Report on exclusion from healthcare of undocumented migrants living in Sweden, Medicins sans Frontieres, 2005.

English Version: <http://www.lakareutangranser.se/files/ReportGomdaSwedenEn.pdf>

Immigration, Asylum and Nationality Bill UK

Text of the Immigration, Asylum and Nationality Bill, as amended in Grand Committee and ordered to be printed in the House of Lords on 19th January 2006.

<http://www.publications.parliament.uk/pa/ld200506/ldbills/066/2006066.pdf>

International Journal of Migration, Health and Social Care

New Journal launched February 2006 – contains two articles on refugee mental health.

<http://www.pavpub.com/pavpub/journals/IJMMHSC/showjournal.asp?Title=International+Journal+of+Migration+and+Social+Care>

On the Margins - Ukraine: Rights Violations Against Migrants and Asylum Seekers at the New Eastern Border of the European Union, Human Rights Watch, November 2005

<<http://www.hrw.org/english/docs/2005/11/30/ukrain12097.htm>>

Websites

UK Refugee Children's Website to launch in June, National Children's Bureau (NCB), UK

The NCB are due to launch a website in June which will disseminate good practice guidance, research and training materials compiled as part of an NCB project to improve practice in the assessment and planning for unaccompanied refugee and asylum seeking children.

http://www.ncb.org.uk/news/news_story.asp?ID=190

Expression of Hope: Stories of torture victims

Website celebrating twenty years of Medical Foundation for Care of Victims of Torture, UK's work. Case studies of torture victims treated by the Medical Foundation.

http://www.torturecare.org.uk/microsites/20_years.htm

Researching Asylum in London

ICAR (Information Centre for Asylum Seekers and Refugees) is to develop and manage a pilot project called Researching Asylum in London, a web-based database of relevant resources.

<http://www.icar.org.uk>

The Refugee Law Reader

The third edition of The Refugee Law Reader. This Reader, which is published by the Hungarian Helsinki Committee, is the first comprehensive on-line model curriculum for the study of international asylum and refugee law. Because of the rapid changes in the field, and in particular the legislative developments within the European Union, we have had to introduce new editions of The Reader at a rapid pace. The amount of material available within its easily accessible framework has doubled since the first publication of The Reader in 2004. As a 'living' casebook, it offers access to an enormous wealth of primary source material and secondary literature that we hope will strengthen the teaching and research capacity in international refugee law.

To access The Refugee Law Reader, please go to <http://www.refugeelawreader.org>

Events

National Refugee Week; Fortress Europe

20 June 2006-26 June 2006

Venue: Leeds Central Library, The Headrow, Leeds, LS1 3AB, West Yorkshire, England

As part of National Refugee Week, Leeds Central Library will be hosting an interactive exhibition

entitled Fortress Europe. This multi-media exhibition is designed to give participants an idea of what it feels like to be a refugee. Refugee Week is a national festival to celebrate the contribution made by Refugees to UK life and promotes understanding of why people become refugees.

<http://www.24hourmuseum.org.uk/leeds/events/EDR28095.html?ixsid=stAeaEwhaJo>

European Open Forum on Return

Malmö - Sweden 24th - 25th March 2006.

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International Summer School in Forced Migration

Refugee Studies Centre, University of Oxford. 3rd - 21st July 2006

International Summer School offers an intensive, interdisciplinary and participative approach to the study of forced migration. It aims to enable people working with refugees and other forced migrants to reflect critically on the forces and institutions that dominate the world of the displaced.

National Refugee Integration Forum, Home Office, UK

This website (www.nrif.org.uk) will highlight the work of the National Refugee Integration Forum (NRIF), which was established by the Home Office in 2000 to bring together representatives from both the public and voluntary sectors to explore practical ways of improving refugee integration.

http://www.ind.homeoffice.gov.uk/ind/en/home/news/press_releases/promoting_integration.html

<http://www.nrif.org.uk/>