

Vice-President Jacques Barrot
European Commission
Commissioner for Freedom, Security and Justice
B-1049 Brussels

Brussels, 9 January 2009

Re: Amending Directive 2005/85/EC, Asylum Procedures

Dear Mr. Barrot,

As organisations engaged in protecting the rights of refugees and asylum seekers, we would like to express to you our concerns about the process of amending the Asylum Procedures Directive (2005/85/EC). We appreciate the Commission's approach of amending the EU asylum measures in view of a Common European Asylum System (CEAS), but as noted in the 2007 Hearing, a thorough evaluation should support the identification of next steps. Such an evaluation has informed proposed amendments to most of the asylum measures, but assessment of the Procedures Directive has not yet been possible.

As you know, and as this week's meeting involving NGOs and the Asylum Unit showed, this Directive is particularly complex and controversial. Commentators have expressed concern that its minimum standards open numerous protection gaps, in areas such as safe countries, accelerated procedures, and access to an effective remedy, and that it provides Member States with the possibility to engage in many derogations from its basic safeguards. We know, and it was clear in the meeting, that the Commission's proposals are being developed carefully, but as the impact assessment is showing, little information is available about the Directive's real effects. This is unsurprising, as its deadlines passed very recently, and transposition remains incomplete.

We would like to request that the Commission propose a fundamental revision of the Directive, to bring it in line with international law and standards. The visible protection gaps are so fundamental that mere modifications (rather than removal or substantial alteration) of certain notions and concepts laid down in the directive would not suffice to do so. Moreover, in the absence of concrete information about how the Directive is applied, revising it to eliminate the many means it provides to deny access to a full asylum procedure is the safest and simplest course.

If, in your view, a fundamental revision is not possible at this stage, we urge you to use your authority to postpone the drafting of amendments so that you, as well as Member States and civil society, may thoroughly analyse current asylum procedures in the EU. The Commission will soon publish its evaluation of the implementation of the Directive, and organisations including the UNHCR have launched, but not yet completed, studies of the Directive's effects. Therefore 2009 will see the emergence of research that could both inform proposals to amend the Directive, and support those proposals during subsequent negotiations. Our fear is that if the Commission establishes its position on the basis of currently available information, it will not be able to support its positions effectively in the forthcoming negotiations.

We stand ready and willing to assist in developing the next phase of the CEAS. To help us fulfill this important and challenging task, please consider our appeal either to propose a fundamental revision of the Asylum Procedures Directive, or to postpone its amendment until the Commission and wider society can thoroughly assess its first phase implementation.

With best regards,



Amnesty International EU Office



Caritas Europa



Churches' Commission for Migrants in Europe



European Council on Refugees and Exiles



International Catholic Migration Commission



Jesuit Refugee Service – Europe



Save the Children – Brussels Office

We would welcome the opportunity to discuss this with you or your staff at your convenience:

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