

Brussels, 3 December 2008

## **Questions and Answers on the Commission Proposal to amend the Reception Conditions Directive**

### **Why are there Community rules regulating the reception conditions for asylum-seekers?**

The Treaty establishing the European Community specifically requested the Council to adopt minimum standards on the reception of asylum-seekers in Member States. This would be an integral part of the Common European Asylum System called for by the EU Heads of State and Government meeting in Tampere in 1999. Since then, asylum has been considered an issue to be tackled at EU level.

During the first phase of the establishment of the Common European Asylum System (1999-2005) an important number of legislative measures harmonising common minimum standards in the area of asylum were adopted. One of these instruments was the Reception Conditions Directive,<sup>1</sup> adopted in 2003, that aims to ensure a dignified standard of living for asylum-seekers throughout the EU.

This Directive contains a number of important rights to be made accessible for asylum-seekers while awaiting a decision on their application for international protection in Member States. In particular asylum-seekers are entitled to adequate material reception conditions which include housing, food, clothing and financial allowances, proper healthcare, freedom of movement, access to the labour market under specific conditions, and information on organisations that could provide relevant assistance.. Specific provisions are also laid down to ensure the protection of particularly vulnerable persons such as minors, unaccompanied children, pregnant women and victims of torture and violence. The standards laid down in the Directive are minimum and Member States may always provide for more favourable provisions.

### **Why is the Commission now proposing to amend the Reception Conditions Directive?**

The Hague Programme agreed by the European Council in 2004 called for the submission by the Commission of the second-phase instruments of the Common European Asylum System (CEAS) to the Council and the European Parliament with a view to their adoption before the end of 2010. The Commission's intention to propose amendments to the Reception Conditions Directive in the framework of the second phase of the Common European Asylum System was confirmed in its recently published Policy Plan on Asylum.

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<sup>1</sup> Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum-seekers. Available in Eur-Lex:  
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32003L0009:EN:HTML>

The present proposal intends to amend the Reception Conditions Directive in order to address the deficiencies identified in the Commission's Evaluation Report<sup>2</sup> on the implementation of the Directive in Member States as well as during the consultation process of the Green Paper on the future of the Common European Asylum System<sup>3</sup>. The Evaluation Report underlined that the wide discretion allowed by the Directive to Member states in a number of areas, notably with regard to access to employment, health care, level and form of material reception conditions, free movement rights and needs of vulnerable persons, undermined the main objective of the Directive, that is of ensuring adequate reception conditions for asylum-seekers. This discretion has also led to diverse national reception policies that hinder the creation of a level playing field in the area of reception conditions throughout the Union.

### **Which amendments are proposed?**

The main aim of the proposal is to ensure higher standards of treatment in terms of reception conditions for persons in need of international protection.

To this end, it is proposed in particular to:

- ensure that detention is used only in exceptional cases and to introduce conditions for detention taking into consideration the specific situation of vulnerable persons. The proposal also provides legal safeguards in order to ensure that detention is not arbitrary and guarantees that children are not to be detained unless it is in their own interest (and unaccompanied minors shall never be detained);
- ensure that mechanisms are established at national level with a view to identify special needs and to guarantee that appropriate treatment is available;
- guarantee an adequate level of material reception conditions, whilst also taking into account gender and age specific considerations.
- facilitate access to the labour market.

### **When will these proposals take effect?**

The Commission proposal will only become EU law after their negotiation and formal adoption by the Council and the European Parliament using the co-decision procedure. It is expected that the negotiations will take approximately two years in the Council and the European Parliament. Once the amended Directive is adopted and published in the Official Journal, the Member States will have two years to transpose it into national law.

During the negotiation of the amendments, the provisions of the current Directive remain applicable in the Member States.

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<sup>2</sup> COM (2007) 745. Available in Eur-Lex  
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52007DC0745:EN:HTML>

<sup>3</sup> COM (2007) 301. Available in Eur-Lex:  
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52007DC0301:EN:HTML>