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REPORT

on the proposal for a Council Directive on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof

(COM(2000) 303 – C5-0387/2000 - 2000/0127(CNS))

Committee on Citizens' Freedoms and Rights, Justice and Home Affairs

Rapporteur: Jan-Kees Wiebenga

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission)

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PROCEDURAL PAGE

By letter of 25 July 2000 the Council consulted Parliament, pursuant to Article 67 of the EC Treaty, on the proposal for a Council Directive on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof (COM(2000) 303 – 2000/0127 (CNS)).

At the sitting of 4 September 2000 the President of Parliament announced that she had referred this proposal to the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs as the committee responsible and the Committee on Budgets and the Committee on Employment and Social Affairs for their opinions (C5-0387/2000).

The Committee on Citizens' Freedoms and Rights, Justice and Home Affairs appointed Jan-Kees Wiebenga rapporteur at its meeting of 29 August 2000.

It considered the Commission proposal and draft report at its meetings of 23 November 2000, 24 January 2001 and 27 February 2001.

At the last meeting it adopted the draft legislative resolution by 28 votes to 1, with 2 abstentions.

The following were present for the vote: Graham R. Watson, chairman, Robert J.E. Evans and Bernd Posselt, vice-chairmen, Jan-Kees Wiebenga, (rapporteur), Charlotte Cederschiöld, Carmen Cerdeira Morterero (for Adeline Hazan), Ozan Ceyhun, Carlos Coelho, Thierry Cornillet, Gérard M.J. Deprez, Giuseppe Di Lello Finuoli, Giorgos Dimitrakopoulos (for Mary Elizabeth Banotti), Pernille Frahm, Evelyne Gebhardt (for Anna Karamanou), Vitaliano Gemelli (for Rocco Buttiglione pursuant to Rule 153(2)), Jorge Salvador Hernández Mollar, Margot Keßler, Timothy Kirkhope, Jean Lambert (for Alima Boumediene-Thiery), Baroness Sarah Ludford, Lucio Manisco (for Fodé Sylla), Hans-Peter Mayer (for Marjo Matikainen-Kallström pursuant to Rule 153(2)), Hartmut Nassauer, Angelika Niebler (for Ana Palacio Vallelersundi pursuant to Rule 153(2)), Elena Ornella Paciotti, Hubert Pirker, Heide Rühle (for Patsy Sörensen pursuant to Rule 153(2)), Ingo Schmitt (for Eva Klamt), Anna Terrón i Cusí, Maurizio Turco (for Frank Vanhecke) and Christian Ulrik von Boetticher.

The Committee on Budgets decided on 19 July 2000 not to deliver an opinion; the Committee on Employment and Social Affairs decided on 6 September 2000 not to deliver an opinion.

The report was tabled on 28 February 2001.

The deadline for tabling amendments will be indicated in the draft agenda for the relevant part-session.

LEGISLATIVE PROPOSAL

on the proposal for a Council Directive on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof (COM(2000) 303 – 2000/0127(CNS))

The proposal is amended as follows:

Text proposed by the Commission¹

Amendments by Parliament

(Amendment 1)

Recital 15

(15) Member States wishing to do so should be allowed to extend the temporary protection in the event of a mass influx of displaced persons to additional categories of displaced persons over and above those to whom the Council Decision applies, where they are displaced for the same reasons and from the same country of origin, and the conditions for exercising this possibility should be determined.

Deleted

Justification:

It is unclear exactly how this recital will apply to ‘additional categories of displaced persons over and above those to whom the Council decision applies’ if they are displaced for the same reasons and come from the same country of origin as the displaced persons or groups of displaced persons whom the Council decision concerns. For this reason, and to prevent confusion, it would be wiser to delete the recital.

(Amendment 2)

Recital 18

(18) Rules should be laid down to govern access to the asylum procedure in the context of temporary protection in the event

(18) Access to the asylum procedure in the context of temporary protection in the event of a mass influx of displaced persons *is*

¹ OJ C 311, 31.10.2000, p. 251.

of a mass influx of displaced persons, in conformity with the Member States' international obligations and **with** the Treaty.

guaranteed in conformity with the Member States' international obligations and the Treaty.

Justification:

Temporary protection in no way diminishes people's right to apply for asylum and have access to the procedure. Laying down further rules is unnecessary and even dangerous.

(Amendment 3)

Recital 22

Provision should be made for a solidarity mechanism intended to contribute to the attainment of a balance of effort between Member States in receiving and bearing the consequences of receiving displaced persons in the event of a mass influx. **The mechanism should consist of two components. The first is financial. The second concerns the physical reception of persons in the Member States on the basis of voluntary action by both the receiving Member States and the displaced persons. The possibility of not applying the second component should be provided for, as should the conditions for its application.**

Provision should be made for a solidarity mechanism intended to contribute to the attainment of a balance of effort between Member States in receiving and bearing the consequences of receiving displaced persons in the event of a mass influx.

Justification:

A different approach from the proposed principle of solidarity is required.

(Amendment 4)

Article 1

The purpose of this Directive is to establish minimum standards for giving temporary protection in the event of a mass influx of displaced persons from third countries who are unable to return to their country of origin, and to **promote** a balance of effort between Member States in receiving and bearing the consequences of receiving such persons.

The purpose of this Directive is to establish minimum standards for giving temporary protection in the event of a mass influx of displaced persons from third countries who are unable to return to their country of origin, and to **secure** a balance of effort between Member States in receiving and bearing the consequences of receiving such persons.

Temporary protection shall as a rule be granted by allocating displaced persons to the Member States with due regard for their absorptive capacity.

Justification:

The term ‘promote’ is too little and too weak; hence the term ‘secure’. There must also be a set formula for allocating displaced persons to ensure the burdens are evenly distributed and prevent some Member States from having to bear the main share. It must also be ensured that displaced persons do not flee to the Member State that they want to reach, as this too places unjustified extra burdens on some Member States.

(Amendment 5)

Article 2(a)

(a) “temporary protection in the event of a mass influx” means exceptional measures to provide, in the event of a mass influx of displaced persons from third countries who are unable to return to their country of origin, immediate and temporary protection to such persons, where there is a risk that the asylum system will be unable to process this influx without adverse effects for its efficient operation, in the interests of the persons concerned and other persons requesting protection; hereinafter referred to as “temporary protection”;

(a) “temporary protection in the event of a mass influx” means exceptional measures to provide, in the event of a mass influx of displaced persons from third countries who are unable to return to their country of origin, immediate and temporary protection to such persons, where there is a risk that the asylum system will be unable to process this influx without adverse effects for its efficient operation, in the interests of the persons concerned and other persons requesting protection, ***or where the UNHCR advises such a measure***; hereinafter referred to as “temporary protection”;

Justification:

The definition of a situation that calls for a measure like temporary protection can never be precise enough. The UNHCR is responsible for the global refugee situation and will be an important adviser in a question like this.

(Amendment 6)

Article 2(d)

(d) “mass influx” means arrival in the Community of a large number of displaced persons from third countries who are unable

(d) “mass influx” means ***the*** arrival in the Community of a large number of displaced persons who are unable to return to their

to return to their country of origin, who come from a specific country or geographical area.

country of origin, who come from a specific country or geographical area, ***whether their arrival on Community territory was spontaneous or aided, for example through evacuation programmes.***

Justification:

If the purpose of the Directive is to provide for an adequate mechanism should a situation such as Kosovo recur, the temporary protection regime should include some reference to Member States' need to bring those in need on to Community territory. If this were not stated explicitly, temporary protection could only be invoked in cases where those in need spill over Community borders. The EU should not deny its responsibility in situations where third countries are taking on those in need of protection.

(Amendment 7)
Article 2(f)

(f) “unaccompanied minors” means third-country nationals below the age of eighteen, who arrive on the territory of the Member States unaccompanied by an adult responsible for them whether by law or custom, and for as long as they are not effectively taken into the care of such a person.

(f) “unaccompanied minors” means third-country nationals below the age of eighteen, who arrive on the territory of the Member States unaccompanied by an adult responsible for them whether by law or custom, and for as long as they are not effectively taken into the care of such a person. ***This definition shall apply whether their arrival on Community territory was spontaneous or aided, for example through evacuation programmes. Unaccompanied minors' rights will be respected with regard to the UN Convention on the Rights of the Child.***

Justification:

The temporary protection regime should be able to be used in the event of a situation similar to that of Kosovo. Minors' rights should be protected in accordance with existing international law.

(Amendment 8)
Article 3(1)

1. Temporary protection does not prejudice recognition of refugee status under the

Deleted

Geneva Convention.

Justification:

This provision does not add any value to Article 3. Under Article 16 of the Directive a person coming under the temporary protection regime is free to apply for asylum.

(Amendment 9)
Article 3(1)a (new)

1a. The Member States shall apply the Directive on temporary protection with due regard for the fundamental rights laid down by the Geneva Convention in general, and the principle of non-refoulement, including rejection at the border, in particular.

Justification:

It is not only important to stipulate that temporary protection does not prejudice recognition of refugee status, but also to state that these potential refugees within the meaning of the Geneva Convention must not be sent back, in breach of the principle of non-refoulement established by that Convention, as long as they enjoy temporary protection. The principle of non-refoulement needs to be enshrined and guaranteed as far as possible.

(Amendment 10)
Article 5(1)(introduction)

A mass influx of displaced persons shall be established by a Council decision adopted by qualified majority on a proposal from the Commission, ***which*** shall also examine any request by a Member State that it submit a proposal to the Council. The Council Decision shall have the effect of introducing temporary protection, for the displaced persons to which it refers, in all the Member States, in accordance with the provisions of this Directive. The Decision shall include at least:

A mass influx of displaced persons ***and their allocation to the individual Member States*** shall be established by a Council decision adopted by qualified majority on a proposal from the Commission. ***The Council shall take a decision on the proposal within three months of it being submitted. The Commission*** shall also examine any request by a Member State that it submit a proposal to the Council. ***It shall submit its proposal to the Council within one month.*** The Council Decision shall have the effect of introducing temporary protection, for the displaced persons to which it refers, in all the Member States, in accordance

with the provisions of this Directive.
The Decision shall include at least:

Justification:

The reception system to be put in place needs to be clarified. Given the serious nature of this matter, the directive should set deadlines for decision-making.

(Amendment 11)
Article 5(1)(c)a (new)

(ca) The criteria to be applied for the purposes of a balanced allocation between Member States of persons enjoying temporary protection.

Justification:

This amendment must be read in conjunction with the proposed modification of Article 25 on reception. The reception system proposed in the directive needs to be improved.

(Amendment 12)
Article 5(2)(b)

(b) an assessment of the advisability of establishing temporary protection, taking into account the potential for emergency aid and action on the ground or the inadequacy of such measures;

(b) an assessment of the advisability ***and necessity*** of establishing temporary protection, taking into account the potential for emergency aid and action on the ground or the inadequacy of such measures;

Justification:

The Council decision should not be based solely on a discretionary assessment of advisability but just as much on specific facts that can determine the real need to establish temporary protection.

(Amendment 13)
Article 5(4) and 4a (new)

4. The European Parliament shall be informed of the Council Decision.

4. The European Parliament shall be informed of ***the Commission proposal and*** the Council Decision.

4a. The European Parliament shall be consulted when the duration of the temporary protection regime exceeds one year. If the Council intends to depart from Parliament's opinion it shall give its reasons for doing so

Justification:

This procedure gives the European Parliament maximum involvement without delaying decision-making.

(Amendment 14)

Article 6(2)

2. The Council Decision shall be based on the establishment of the fact that the situation in the country of origin is such as to permit the long-term, safe and dignified return, in accordance with Article 33 of the Geneva Convention and the European Convention on Human Rights. The European Parliament shall be informed of the Decision.

2. The Council Decision shall be based on the establishment of the fact that the situation in the country of origin is such as to permit the long-term, safe and dignified return, ***in order to ensure the physical safety, legal security and respect for basic rights of returnees***, in accordance with Article 33 of the Geneva Convention and the European Convention on Human Rights. ***The Council Decision shall take into account the assessments and recommendations of the UNHCR and other international organisations.*** The European Parliament shall be informed of the ***Commission proposal and the Council Decision.***

Justification:

Safeguards need to be inserted to ensure that those under temporary protection are not returned to their country of origin if the conditions there are not adequate for them to integrate back into society.

Given the serious nature of this matter, the European Parliament should be involved as far as possible in the decision-making process.

(Amendment 15)

Article 7

Member States may extend temporary protection to additional categories of person who are displaced for the same reasons and from the same country of origin in cases where these categories are not included in the Council Decision provided for in Article 5. They shall notify the Council and the Commission immediately.

Member States may extend temporary protection *pursuant to this Directive* to additional categories of person who are displaced for the same reasons and from the same country of origin in cases where these categories are not included in the Council Decision provided for in Article 5. They shall notify the Council and the Commission immediately.

Justification:

Other categories of persons who are offered temporary protection by the Member States should be subject to the same rules as those coming under European legislation.

(Amendment 16)

Article 7a (new)

(Becomes first article in Chapter III of the proposed directive)

Article 7a

When there is a massive influx of persons in need of temporary protection into one or more Member States, these shall take action to care for their immediate human needs, particularly accommodation, food and medical care.

When the emergency period is over and all those concerned have been registered, the situation of the group shall be assessed together with the reasons prompting their flight and giving rise to the temporary protection regime.

Justification:

It is important to distinguish between the urgent assistance that the arrival of people requires and the temporary protection regime.

(Amendment 17)

Article 8(1)

1. The Member States shall adopt the necessary measures to provide persons enjoying temporary protection with residence permits for the entire duration of the protection. Documents shall be issued for that purpose.

1. The Member States shall adopt the necessary measures to provide persons enjoying temporary protection with residence permits for the entire duration of the protection. Documents shall be issued for that purpose ***with the utmost speed.***

Justification:

There is a need to ensure that the issuing of documents takes no longer than is absolutely necessary for the relevant authorities.

(Amendment 18)

Article 8(2)

2. Whatever the period of validity of the residence permits referred to in paragraph 1, the treatment granted by the Member States to persons enjoying temporary protection ***may not be less favourable than*** that set out in Articles 9 to 15.

2. Whatever the period of validity of the residence permits referred to in paragraph 1, the treatment granted by the Member States to persons enjoying temporary protection ***shall be at least equivalent to*** that set out in Articles 9 to 15.

Justification:

This is a linguistic improvement to clarify the obligations of Member States for the treatment of those enjoying temporary protection.

(Amendment 19)

Article 8(3)a (new)

3a. The Member States shall give persons enjoying temporary protection access to their territory.

Justification:

Without access to the territory of the Member State concerned, temporary protection is meaningless. This right should therefore be spelt out in the directive.

(Amendment 20)
Article 8(3)b (new)

3b. Member States shall not impose any new measures, such as visa requirements or carrier sanctions, which may prevent refugees from gaining access to temporary protection. Where such measures are already in place, they should be temporarily suspended throughout the European Union in cases where they would restrict the rights of those covered by this Directive.

Justification:

Following the Kosovo crisis, many Member States imposed visa restrictions to avoid receiving large numbers of Kosovars. These and other restrictions should not be allowed.

(Amendment 21)
Article 12(1)

1. The Member States shall grant minors enjoying temporary protection access to the education system under the same conditions as nationals of the host Member State. ***The Member States may limit such access to the state education system.*** Minors shall be younger than the age of legal majority in the Member State concerned.

1. The Member States shall grant minors enjoying temporary protection ***immediate*** access to the education system under the same conditions as nationals of the host Member State. ***(12 words deleted)*** Minors shall be younger than the age of legal majority in the Member State concerned.

Justification:

There is no reason why access to education should be restricted in any way. Minors enjoying temporary protection should have the same rights as nationals, and should gain access to education as quickly as possible.

(Amendment 22)
Article 13(1) and (2)

1. When the circumstances surrounding the mass influx have led to the separation of families which already existed in the country of origin, the Member States shall authorise

1. When the circumstances surrounding the mass influx have led to the separation of families which already existed in the country of origin, the Member States shall authorise

the entry and residence of the following persons:

(a) the spouse *or* unmarried partner in a stable relationship, if the legislation of the Member State concerned treats unmarried couples in the same way as married couples;

(b) the children of the couple referred to in point (a) or of the applicant, on condition that they are unmarried and dependent and without distinction according to whether they were born in or out of wedlock or adopted;

(c) other family members if they are dependent on the applicant or have undergone particularly traumatic experiences or require special medical treatment.

2. Families may be reunited at any time during the period of temporary protection until *two* months before the end of the maximum two-year period. Reunited family members shall be granted residence permits under the temporary protection scheme.

the entry and residence of the following persons:

(a) the spouse; *the Member States may admit an* unmarried partner in a stable relationship, if the legislation of the Member State concerned treats unmarried couples in the same way as married couples;

(b) the children of the couple referred to in point (a) or of the applicant, on condition that they are unmarried and dependent and without distinction according to whether they were born in or out of wedlock or adopted;

(c) other family members, *if refusal of the right to join the applicant would cause serious hardship because of exceptional circumstances.*

2. Families may be reunited at any time during the period of temporary protection until *six* months before the end of the maximum two-year period. Reunited family members shall be granted residence permits under the temporary protection scheme.

(Amendment 23)

Article 13(6)

6. The Member State concerned shall examine the application for reunification as quickly as possible. Any decision rejecting the application shall be accompanied by a statement of reasons and be open to legal challenge in the Member State concerned. When examining applications, the Member States shall give priority to the interests of minors.

6. The Member State concerned shall examine the application for reunification as quickly as possible *and shall take a decision within three months.* Any decision rejecting the application shall be accompanied by a statement of reasons and be open to legal challenge in the Member State concerned. *If no decision has been taken within the period laid down, an appeal may also be lodged.* When examining applications, the Member States shall give priority to the interests of minors.

Justification:

Given the short duration of temporary protection, decisions on family reunification should be taken rapidly, and there should be an associated penalty.

(Amendment 24)
Article 13(6a) (new)

6a. The provisions of this article shall in no case diminish the right of persons with a residential status other than that of displaced person to assert their rights to apply for the reuniting of their family.

Justification:

The right to apply for the reuniting of their family should not be impaired for persons with a residential status other than that of displaced person.

(Amendment 25)
Article 14(3a) (new)

3a. When dealing with minors, Member States will uphold the provisions set out in the UN Convention on the Rights of the Child.

Justification:

To guarantee that minimum standards of protection for minors are not weaker than those set out in international law.

(Amendment 26)
Article 17

The ***criteria and mechanisms for deciding which*** Member State is responsible for considering asylum application ***shall apply***.

The ***host*** Member State is responsible for considering ***the*** asylum application ***of a person enjoying temporary protection***.

Justification:

The Dublin Convention should not be applied to displaced persons as they are already living in a Member State, i.e. the host Member State. This is the view taken by the UNHCR.

(Amendment 27)
Article 18(1)

1. The Member States may provide that temporary protection may not be enjoyed concurrently with the status of asylum seeker while applications are under consideration.

1. Member States will ensure that people enjoying temporary protection will maintain the rights accorded to them under temporary protection while their application for asylum is being examined. Temporary protection provisions will apply until the end of the temporary protection regime.

Justification:

Those under temporary protection should not lose their rights if they apply for asylum. This would act as a disincentive to apply for asylum, and the text of the original proposal could be open to abuse by Member States.

(Amendment 28)
Article 20

The Member States shall consider any compelling humanitarian reasons **which** may make return impossible or unrealistic **in specific cases**.

The Member States shall consider **providing long-term solutions in specific cases where** any compelling humanitarian reasons may make return impossible or unrealistic.

Justification:

Among beneficiaries of temporary protection are those who are in continued need of protection following the ending of the regime, particularly those who have suffered persecution in the past and continue to be traumatised by such experiences.

(Amendment 29)
Article 21(1)

1. The Member States shall take the measures necessary to facilitate the voluntary return, in a secure and dignified manner, of persons enjoying temporary protection or whose temporary protection has ended. The Member States shall ensure that the decision of those persons to return is taken in full knowledge of the facts. The Member States may provide for the possibility of exploratory visits.

1. The Member States shall take the measures necessary to facilitate the voluntary return, in a secure and dignified manner, of persons enjoying temporary protection or whose temporary protection has ended. The Member States shall ensure that the decision of those persons to return is taken in full knowledge of the facts. **Member States shall ensure that the return of those under temporary protection should**

possibility of exploratory visits.

not compromise the returnees' physical safety, legal security or basic rights. Such a decision shall be based upon the assessments and recommendations of the UNHCR and other international organisations. The Member States may provide for the possibility of exploratory visits.

Justification:

Need to safeguard against people being returned to dangerous or uninhabitable situations.

(Amendment 30)

Article 21(3)

3. At the end of the temporary protection, the ***Member States may provide for*** the obligations laid down in Chapter III to be extended individually to persons who have been covered by temporary protection and are benefiting from a voluntary return programme. The extension shall have effect until the date of return.

3. At the end of the temporary protection, the obligations laid down in Chapter III ***shall remain in force for*** persons who have been covered by temporary protection and are benefiting from a voluntary return programme ***unless the host Member State decides to apply the provisions of Article 19 in full.*** The extension shall have effect until the date of return.

Justification:

In the Commission proposal, the decision to extend the temporary protection regime for displaced persons is at the discretion the host Member State. It would be better to stipulate that in principle protection will be extended.

(Amendment 31)

Article 25(1), first sentence

1. The Member States shall receive persons who are eligible for temporary protection ***in a spirit of Community solidarity.***

1. The Member States shall receive persons who are eligible for temporary protection, ***with due regard for the principle of a balance of effort between Member States in Article 63(2)(b) of the EC Treaty.***

Justification:

It is important to lay down the principles on which the reception of displaced persons must be based. At the moment the principles can only be those appearing in the Treaty and repeated in the Conclusions of the Presidency of the Tampere Extraordinary European Council.

(Amendment 32)

Article 25(1) second sentence

They shall *either* indicate - in figures *or* in general terms - their capacity to receive such persons, or state the reasons for their incapacity to do so.

Before adopting the above decision, they shall indicate - in figures **and** in general terms - their capacity to receive such persons, **and** the reasons **on which that assessment is based.**

Justification:

We have to draw the line at the directive including the express possibility of a Member State not taking in any displaced persons at all. This would be in breach of Article 63(2) of the Treaty establishing the European Community, which contains the obligation to promote a balance of effort between Member States in receiving displaced persons. On the other hand, the Member States should give reasons for their offers.

(Amendment 33)

Article 25(2)

2. The Member States, acting in cooperation with the competent international organisations, shall ensure that the beneficiaries defined in the Decision referred to at Article 5, who are not yet on their territory are willing to be received on their territory.

2. The Member States, acting in cooperation with ***the Commission and*** the competent international organisations, shall ensure that the beneficiaries defined in the Decision referred to at Article 5, who are not yet on their territory are willing to be received on their territory.

Justification:

It is important that the Commission should play a role in large-scale operations of this kind.

(Amendment 34)

Article 26(1a) (new)

1a. Any responsibility-sharing arrangements made for the redistribution of beneficiaries of temporary protection must respect the specific protection needs

of the individuals concerned, such as family ties in a Member State, as well as basic protection principles, such as family unity and humanitarian concerns.

Justification:

The existence of responsibility-sharing arrangements must not be made a pre-condition for extending temporary protection.

(Amendment 35)

Article 29(1)

1. The Member States may exclude a person from temporary protection if they are regarded as a danger to their national security or if there are serious grounds for believing that they have committed *a war crime or crime against humanity or if, during consideration of the asylum application, it is found that the exclusion clauses in Article 1F of the Geneva Convention apply.*

1. The Member States may exclude a person from temporary protection if they are regarded as a danger to their national security or if there are serious grounds for believing that they have committed *any of the offences laid down in Article 1F of the Geneva Convention. In such cases particularly cruel actions shall also be considered serious non-political crimes, even if they were committed with an allegedly political objective, not only if the persons concerned participated in the crime but also if they acted as its instigator.*

Justification:

Consistency with Article 1F of the Geneva Convention and point 13.2 of the Council Common Position of 4 March 1996 on harmonised application of the definition of the term ‘refugee’ (96/196/JHA).

This amendment should ensure that cases of terrorism are also covered.

DRAFT LEGISLATIVE RESOLUTION

European Parliament legislative resolution on the proposal for a Council Directive on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof (COM(2000) 303 – 2000/0127(CNS))

(Consultation procedure)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2000) 303)¹,
 - having been consulted by the Council pursuant to Article 67 of the EC Treaty (C5-0387/2000),
 - having regard to Rule 67 of its Rules of Procedure,
 - having regard to the report of the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs (A5-0077/2000),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 250(2) of the EC Treaty;
 3. Calls on the Council to notify Parliament should it intend to depart from the text approved by Parliament;
 4. Asks to be consulted again if the Council intends to amend the Commission proposal substantially;
 5. Instructs its President to forward its position to the Council and Commission.

¹ OJ C 311, 31.10.2000, p. 251.

EXPLANATORY STATEMENT

This proposal for a directive was preceded by two earlier Commission proposals, namely the proposal for joint action on the temporary protection of displaced persons of 16 May 1997 (COM(1997) 0093¹) and the amended proposal for a joint action (COM(1998) 0372² and COM(1998) 0372³), on which the Council was unable to reach a decision. This is lamentable in view of the seriousness of this matter. At the extraordinary European Council of October 1999 in Tampere, the heads of government urged the Council to reach agreement on the proposals. The European Commission's scoreboard of March 2000 (COM(2000) 167 final) announced that the Commission would bring forward a revised version as soon as possible.

The entry into force of the Treaty of Amsterdam also made a revised version essential. The Commission has opted for a proposal for a directive. In your rapporteur's view, this is an appropriate choice. The proposal for a directive is based on Article 63(2) of the Treaty establishing the European Community. This is the correct legal basis.

The main points covered by the proposal for a directive are as follows:

- (a) the way in which temporary protection is brought into force and terminated in a specific case;
- (b) the obligations of the Member States vis-à-vis displaced persons;
- (c) the relationship between this directive and normal asylum procedures;
- (d) the return of displaced persons and related measures;
- (e) solidarity and burden-sharing between the Member States.

The proposal for a directive contains a large number of improvements compared with the two earlier proposals referred to above. Burden-sharing between the Member States is no longer separate from the arrangements for the reception of displaced persons. The relationship between the reception arrangements and normal asylum procedures and the Geneva Convention is now clearer. The temporary protection regime now lasts two years instead of five. It is a good idea to include provisions concerning the rights of displaced persons. Decisions on the entry into force and termination of temporary protection measures are now taken by the Council by a qualified majority instead of by unanimity. However, in your rapporteur's view, the arrangements concerning solidarity and burden-sharing are still inadequate.

For further details, the reader is referred to the justifications for the amendments tabled.

¹ OJ C 106, 4.4.1997, p. 13.

² OJ C 268, 27.8.1998, p. 13.

³ OJ C 268, 27.8.1998, p. 22.