

*Brussels, 13/07/2010
C/2010/4839*

Dear President,

The Commission thanks the Senate of the Parliament of the Czech Republic for its opinion of 17th March 2010 on the Commission's proposal for a recast of the Asylum Procedures {COM(2009)554}.

In line with the Commission's decision to encourage national Parliaments to react to its proposals to improve the process of policy formulation, we welcome this opportunity to respond to your comments. I enclose the Commission's response and hope that these clarifications satisfactorily address the issues raised in your submission.

Yours sincerely,

*Mr. Přemysl Sobotka
President of the Senate
of the Parliament of the Czech Republic*

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EUROPEAN COMMISSION

**COMMENTS OF THE EUROPEAN COMMISSION ON A RESOLUTION FROM
THE SENATE OF THE PARLIAMENT OF THE CZECH REPUBLIC**

**COM(2009)554 – PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF
THE COUNCIL ON MINIMUM STANDARDS ON PROCEDURES IN MEMBER STATES FOR
GRANTING AND WITHDRAWING INTERNATIONAL PROTECTION (RECAST).**

The Commission proposal aims at streamlining and consolidating procedures for granting international protection across the Union and improving the quality of decisions at first instance, hence increasing the overall efficiency of the asylum process. The recast is instrumental in reducing disparate procedural arrangements and divergent interpretation of common grounds of international protection between Member States. It turns into action the Commission's commitment to propose measures aimed at ensuring that asylum seekers are treated in the same way and with the same high-standard guarantees and procedures, wherever in the EU they make their claims for international protection¹.

It also responds to the call of the European Pact on Immigration and Asylum, adopted by the European Council on 17 October 2008, to present proposals for establishing, in 2012 at the latest, a single asylum procedure comprising common guarantees, and corresponds to the Stockholm Programme, adopted by the European Council of 11-12 December 2009, in which Member States reconfirm their commitment to establishing a Common European Asylum System (CEAS) based *inter alia* on a common asylum procedure.

The Commission agrees with the Senate's opinion that legislative proposals for the second generation asylum instruments should be based on a thorough evaluation of the existing standards. Before proposing the recast of the Asylum Procedures Directive, the Commission carried out a careful analysis of transposition measures communicated by Member States. The Commission thoroughly studied 89 contributions from a wide range of stakeholders, including a significant number of Member States and specialist NGOs submitted in response to the Asylum Green Paper presented in June 2007 with a view to identifying possible options for shaping the second phase of the CEAS. The majority of responses to the Green Paper specifically addressed procedural notions and devices provided for in the Asylum Procedures Directive. The implementation of the Directive and possible ways to address deficiencies of the current framework were discussed in 6 experts' meetings organised by the Commission between February 2008 and January 2009. These consultations involved Government experts, NGOs, UNHCR and legal practitioners providing legal advice to asylum applicants. Further data were collected in response to detailed questionnaires addressed by the Commission to all Member States and to Civil Society. Moreover, an external study was conducted on behalf of the Commission, analysing the existing evidence and results of consultations and

¹ The Commission's policy plan on asylum, June 2008

questionnaires, for the purpose of the preparation of the Impact Assessment accompanying the proposal.

The Commission therefore has at its disposal relevant data and intends to report to the European Parliament and to the Council on the application of the Directive in the course of the first semester of 2010.

In the opinion of the Senate, the reduction of exceptions including those related to the applicant's right to a personal interview and enhanced access to legal aid might have an impact on the speed and costs of the asylum procedure. In this respect, the Senate recommends to re-assess the reducing of exceptions to the current standards. The Commission shares the view that procedures for granting international protection should be efficient and cost – effective. With a view to achieving these objectives, the Commission's proposal provides for frontloading services, expertise and guarantees in first instance procedures, hence saving time and reducing administrative and financial costs employed in the appeal procedures. The proposed standards on personal interviews and legal assistance are an integral part of this approach. They are in particular instrumental in addressing root causes of subsequent applications and improving defendability of first instance decisions before appeal bodies.

The Commission further recalls that the CEAS inevitably requires common procedures and guarantees, as confirmed in the European Pact on Immigration and Asylum and moreover enshrined in the Lisbon Treaty. Numerous optional clauses contained in the Asylum Procedures Directive have hampered consistent application of common procedural standards, leading to disparate procedures and divergences in applying substantive criteria for granting international protection provided for in the Qualification Directive², as ascertained by asylum statistics. In order to address this obvious shortcoming of the first stage CEAS, the recast consolidates procedural arrangements and significantly reduces exceptions to the basic procedural safeguards. This should ensure the availability of common guarantees in all national procedures, hence contributing to the consistent application of substantive and procedural rules on international protection across the European Union.

² Proposal for a Directive of the European Parliament and of the Council on minimum standards for the qualification and status of third country nationals or stateless persons as beneficiaries of international protection and the content of the protection granted (Recast), COM(2009) 551 final, 21.10.2009