

Refugee Council's response to the Home Office Consultation on changes to the Policy of Issuing of Certificates of Identity, February 2003



The Refugee Council

The Refugee Council is the largest non-governmental organisation supporting asylum seekers and refugees in the UK and promoting refugee rights in the UK and abroad. Our members range from small refugee-run community organisations to international NGOs, such as Christian Aid, Save the Children and Oxfam.

We have long-standing concerns about problems with the recognition of the CID. We regularly hear from people who have been recognised by the UK as being in need of protection (and granted ELR) and are deeply distressed to find themselves unable to travel elsewhere in Europe, for example to meet relatives after years of separation. The fact that no signatory to the Schengen Agreement recognises the CID is a sign that the problem has escalated. We would therefore welcome measures to ensure the recognition of travel documents issued to people with ELR/ELE status. However, we have several concerns about the proposed changes outlined by the Home Office.

Principal concerns

1. The proposals do not outline the reasons why Schengen signatories and other countries do not recognise the CID. Without this information it is not clear how the proposals will make the document more credible for our European neighbours. We request that the Home Office provide us with further clarification of the reasons why Schengen signatories do not view the CID as credible, and the ways in which the proposed changes address those reasons. Is there any evidence that countries would accept CIDs if the proposed changes were implemented?
2. The changes outlined in the proposal, if implemented, would cause significant hardship and distress for people with ELE/R status with family members in other countries. In many cases family members get split up in the chaos of flight and seek asylum in different countries. In our experience it is of utmost importance that people are able to visit relatives in other countries. The protection of the family as the natural and fundamental unit of society is a widely recognised principle of human rights. We are concerned that the changes would leave people with ELE/R status unable to travel to visit relatives unless those relatives were seriously ill or had died.
3. The Refugee Council has grave concerns about any measure seeking to restrict the rights of people with ELE/R status. We believe that people with complementary forms of protection should be given equivalent rights and entitlements to people with refugee status, including the ability to travel. This is a core issue in the debate around the proposed EU directive setting minimum standards for the qualification

and status of third country national and stateless persons as refugees or as persons who otherwise need international protection. The Home Office's own memorandum to the House of Lords enquiry into the Directive succinctly gives the main grounds why there should be little or no difference between refugee status and complementary forms of protection (Explanatory Memorandum 2001/0207 (CNS)):

'there are a number of reasons for limiting the difference between the two protection statuses: an individual's needs are the same regardless of the status granted; it would help limit the number of appeals by those refused refugee status but granted subsidiary protection.'

One of the practical consequences of not offering similar rights to people with refugee status and people with subsidiary protection status is that it creates an incentive for people to apply for 'upgrade appeals'. This leads to an unnecessary additional burden on the decision making system. The House of Lords EU Select Committee endorses this view:

'We urge the Government to push for the extension of the same rights to everybody entitled to international protection. Not only would this remove an apparently unjustified discrimination between Geneva Convention refugees and beneficiaries of subsidiary protection, it would also, as the Government itself recognised, have practical advantages. It would help limit the number of appeals by those refused refugee status but granted subsidiary protection'.¹

4. We are concerned about the suggestion that the CID encourages unsuccessful asylum applications. This contradicts published Home Office research which found that asylum seekers tend to have little influence over their country of final destination, as they are forced to depend on human smugglers. Those who are able to exercise some choice, have little knowledge of UK immigration or asylum procedures before arriving in the UK, nor of entitlements to benefits, the availability of work or how UK policies compare to those of other EU countries.² The main reasons for wishing to reach the UK are family, community or historical ties and a positive impression of the country as respectful of human rights.

5. The proposals state that in some cases people have abused their certificates of identity by returning to their country of origin. We should be grateful if the Home Office would clarify the extent of this problem. We should also like to draw the Home Office's attention to past instances where CIDs (suitably endorsed) have been issued specifically for the purpose of enabling people to return home, for example CIDs issued to Kosovars for 'explore and prepare' visits.

6. It is proposed that a CID may be issued on exceptional compassionate grounds. The Refugee Council is concerned that the 'compassionate grounds' outlined in the proposal would be difficult to plan for. We envisage that there would be practical problems with obtaining documents at short notice, for example in the time between

¹ House of Lords Select Committee on the European Union 28th Report 'Defining refugee status and those in need of international protection'.

² Understanding the decision-making of asylum seekers, V. Robinson, University of Wales, July 2002

the death and burial of a relative. It is essential that any arrangements be sufficiently robust to process applications quickly when needed.

7. The proposed changes would only allow for travel documents to be issued 'if the applicant has been refused asylum but granted ELE/R.' We would remind the Home Office that not all people granted ELE/R have been refused asylum: Kosovars on the Humanitarian Evacuation Programme, for example. It is likely that the beneficiaries of the European Council Directive on Temporary Protection would be in a similar position. We would urge the Home Office to ensure that any policy on travel documents does not automatically exclude such people from successfully applying for the CID.

8. We believe there should be arrangements for unaccompanied children with family members in Europe to enable them to maintain relationships with extended family. It is in the interests of some children to be able to strengthen their relationships through visits. For some this would require the CID. Children in public care are usually cared for by foster families and residential children's homes. Any policy change that would preclude children from attending family holidays would be most unwelcome.

Conclusion

We do not accept that there is a need for the proposed new arrangements. We believe people with complementary protection should be entitled to the same rights as those with refugee status. We urge the government to take measures to convince its EU partners of its stated view that the distinction between refugee status and complementary protection should be limited.

Refugee Council
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