

Brussels, 3 December 2008

## Questions and Answers on the Commission Proposal to amend the Dublin Regulation

### Why is it necessary to have a mechanism for the determination of the Member State responsible for an application for international protection?

The Treaty establishing the European Community specifically requested the Council to adopt criteria and mechanisms for determining the Member State responsible for examining an asylum request presented by a third-country national. 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 and regulating other aspects in the area of asylum were adopted. One of these instruments is the so-called Dublin Regulation<sup>1</sup> which was adopted in 2003 and replaced a previous Convention which fell outside the scope of Community legislation. The purpose of the Regulation was on the one hand to guarantee effective access to the procedures for determining refugee status and to ensure a quick processing of the asylum applications and, on the other had, to prevent abuse of asylum procedures in the form of multiple applications submitted by the same person in several Member States with the sole aim of extending his or her stay. n. Under the Regulation, Member States agreed:

- to effectively examine the application of any third-country national for which they are responsible in accordance with a set of – hierarchical – criteria;
- to attribute responsibility for examining an asylum application to the Member State which played the most important part in the applicant's entry or residence in the Union, subject to exceptions designed to protect family unity;
- to readmit a person who has previously lodged an asylum claim in one Member State and is subsequently present in a second Member State.

Why is the Commission now proposing to amend the Dublin Regulation?

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 Dublin Regulation 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 Regulation EC/343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining a request for asylum lodged in one of the Member States by a third country national.

Available in Eur-Lex:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32003R0343:EN:HTML>

Five years after the start of its implementation, the present proposal intends to amend the Dublin Regulation in order to address the deficiencies identified in the Commission report<sup>2</sup> on the evaluation of the Dublin system presented in 2007 as well as during the consultation process of the Green Paper on the future of the Common European Asylum System<sup>3</sup>.

The main aim of the proposal is to increase the system's efficiency and to ensure higher standards of protection for persons falling under the Dublin procedure. Moreover, in line with the emphasis put on solidarity in the Policy Plan on Asylum, the proposal aims to contribute to better addressing situations of particular pressure on Member States' reception facilities and asylum systems.

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

In order to increase the efficiency of the system, it is proposed in particular to:

- establish adequate deadlines for different types of requests between Member States in order to ensure that the procedure runs smoother;
- clarify the circumstances and procedures for applying certain rules, such as those allowing Member States to take responsibility for an asylum seeker for humanitarian and compassionate reasons. This aims at ensuring a more uniform and efficient application of the Regulation by all Member States;
- better specify the practical rules applicable to the transfer of an asylum seeker to the Member States responsible, such as sharing of relevant information (notably on medical needs) in advance in view of facilitating practical cooperation between Member States;

In order to ensure better protection standards for the asylum-seekers under the Dublin procedure, it is proposed in particular to:

- further specify the information to be provided to asylum-seekers about the rules and the implications of the Dublin procedure;
- Introduce additional guarantees concerning the right to appeal against a transfer decision, in order to ensure that the right to remedy is effective;
- define clear and limited circumstances under which asylum-seekers subject to the Dublin procedure can be detained;
- facilitate the right to family reunification, in particular as concerns the reunification of an applicant with relatives between whom there is a dependency link and with beneficiaries of subsidiary protection;
- better define the rules applicable to unaccompanied minors in order to protect their best interests.

Finally, it is proposed to establish a mechanism of suspension of Dublin transfers in limited circumstances in order to prevent that Member States experiencing particular pressure on their asylum systems are not further overburdened because of Dublin transfers and to ensure that asylum-seekers are not sent to Member States who cannot offer them an adequate standard of protection in particular in terms of reception conditions and access to the asylum procedure.

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<sup>2</sup> COM (2007) 299. Available in Eur-Lex:  
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52007DC0299: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>

**When will these proposals take effect?**

The Commission proposal will only become EU law after its 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. Shortly after the amended Regulation is adopted and published in the Official Journal, the Member States will start implementing it.

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