

Asylum applications *

Proposal for a Council regulation establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national (COM(2001) 447 – C5-0403/2001 – 2001/0182(CNS))

The proposal was amended as follows:

Text proposed by the Commission¹

Amendments by Parliament

Amendment 1
Recital 4

(4) Such a method should be based on objective, fair criteria both for the Member States and for the persons concerned. It should, in particular, make it possible to rapidly determine the Member State responsible, so as to guarantee effective access to the procedures for determining refugee status and not to compromise the objective of the rapid processing of asylum applications which is the basis of Council Directive .../.../EC on minimum standards on procedures in Member States for granting and withdrawing refugee status.

(4) Such a method should be based on ***legal certainty and predictability, and on*** objective, fair criteria both for the Member States and for the persons concerned. It should, in particular, make it possible to rapidly determine the Member State responsible, so as to guarantee effective access to the procedures for determining refugee status and not to compromise the objective of the rapid processing of asylum applications which is the basis of Council Directive .../.../EC on minimum standards on procedures in Member States for granting and withdrawing refugee status.

Amendment 30
Recital 16a (new)

(16a) The Commission and Council should ensure consistency between the time-limits and the suspensory effect of appeals provided for in Directive .../.../EC on minimum standards on procedures in Member States for granting and withdrawing refugee status and this Regulation.

¹ OJ C 304 E, 30.10.2001, p. 192.

Amendment 28
Article 2, point (i)

(i) "family members" means an asylum seeker's spouse or unmarried partner in a stable relationship, if the legislation of the Member State responsible treats unmarried couples in the same way as married couples, provided that the couple was formed in the country of origin; his unmarried minor children under the age of eighteen, irrespective of the nature of their filiation or his ward; his father, his mother or his guardian, if the asylum seeker is himself an unmarried minor under the age of eighteen; where appropriate, other persons to whom the applicant is related and who used to live in the same home in the country of origin, if one of the persons concerned is dependent on the other;

(i) "family members" means an asylum seeker's spouse or unmarried partner in a stable relationship, if the legislation of the Member State responsible treats unmarried couples in the same way as married couples, ***irrespective of sex***, provided that the couple was formed in the country of origin; his unmarried minor children under the age of eighteen, irrespective of the nature of their filiation or his ward; his father, his mother or his guardian, if the asylum seeker is himself an unmarried minor under the age of eighteen; where appropriate, other persons to whom the applicant is related and who used to live in the same home in the country of origin, if one of the persons concerned is dependent on the other;

Amendment 2
Article 3, paragraph 1

1. An asylum application shall be examined by a single Member State. That Member State shall be the one which the criteria set out in Chapter III indicate is responsible.

1. An asylum application shall be examined by a single Member State ***in accordance with its international obligations***. That Member State shall be the one which the criteria set out in Chapter III indicate is responsible.

Amendment 29
Article 3, paragraph 3, subparagraph 2

The asylum seeker shall be informed in writing of the date when the examination of his application shall start.

The asylum seeker shall be informed in writing ***in a language s/he understands and reads*** of the date when the examination of his application shall start.

Amendment 3
Article 6

Where the asylum seeker is an

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unaccompanied minor, the Member State where a member of his family is who is able to take charge of him shall be responsible, provided that this is in the best interests of the child.

unaccompanied minor, the Member State where a member of his family ***or another relative*** is who is able ***and willing*** to take charge of him shall be responsible, provided that this is in the best interests of the child.

Amendment 4
Article 9, paragraph 5

5. The fact that the residence document or visa was issued on the basis of a false or assumed identity or on submission of forged, counterfeit or invalid documents shall not prevent responsibility being allocated to the Member State which issued it. However, the State issuing the residence document or visa shall not be responsible, if it can establish that a fraud was committed after the document/visa had been issued.

5. The fact that the residence document or visa was issued on the basis of a false or assumed identity or on submission of forged, counterfeit or invalid documents shall not prevent responsibility being allocated to the Member State which issued it. However, the State issuing the residence document or visa shall not be responsible, if it can establish that a fraud ***that was instrumental in determining the allocation of responsibility*** was committed after the document/visa had been issued.

Amendment 5
Article 15, introduction

Where several members of a family submit asylum applications in the same Member State simultaneously, or on dates sufficiently close that the procedures for determining the State responsible can be conducted together, and where the application of the criteria set out in this Regulation would lead to them being separated, the State responsible shall be determined on the basis of the following provisions:

Where several members of a family submit asylum applications in the same Member State simultaneously, or on dates sufficiently close that the procedures for determining the State responsible can be conducted together, and where the application of the criteria set out in this Regulation would lead to them being separated, the State responsible shall be determined on the basis of the following provisions, ***provided that the persons concerned so desire:***

Amendment 6
Article 16, paragraph 1, subparagraph 1

1. Any Member State, even where it is not responsible under the criteria set out in this Regulation, may for humanitarian reasons, based in particular on family or cultural considerations, examine an asylum

1. Any Member State, even where it is not responsible under the criteria set out in this Regulation, may for humanitarian reasons, based in particular on family or cultural considerations, examine an asylum

application at the request of another Member State, provided that the applicant consents. Member States shall regard situations where one of the persons concerned is dependent on the assistance of the other on account of pregnancy or maternity, their state of health or great age as justifying the uniting of the asylum seeker with a member of his family present on the territory of one of the Member States in circumstances not provided for by this Regulation.

application at the request of another Member State, provided that the applicant consents. Member States shall regard situations where one of the persons concerned is dependent on the assistance of the other on account of pregnancy or maternity, their state of health or great age as justifying the uniting of the asylum seeker with a member of his family ***or other relative*** present on the territory of one of the Member States in circumstances not provided for by this Regulation.

Amendment 7

Article 16, paragraph 2, subparagraph 1 a (new)

Member States shall inform the asylum seeker of his right to request that another Member State assume responsibility for processing his application for humanitarian reasons.

Amendment 8

Article 18, paragraph 1, subparagraphs 2a and 2b (new)

Where the asylum seeker is an unaccompanied minor pursuant to Article 6, the deadline shall be suspended during the period required to examine the suitability of the family member or other relative to take charge of the child.

Where the determination of the State responsible pursuant to Article 8(2) depends on the outcome of an admissibility procedure in another State, the deadline shall be suspended from the time when that State is notified until the requesting State has been informed of the outcome.

Amendment 9

Article 20, paragraph 1

1. Where the State requested accepts that it should take charge, the State in which the

1. Where the State requested accepts that it should take charge, the State in which the

asylum application was lodged shall communicate to the applicant a single decision concerning the inadmissibility of his application in that Member State and the transfer to the State responsible within no more than fifteen working days from the date of receipt of the reply from the State responsible.

asylum application was lodged shall communicate to the applicant, ***in a language he understands***, a single decision concerning the inadmissibility of his application in that Member State and the transfer to the State responsible within no more than fifteen working days from the date of receipt of the reply from the State responsible.

Amendment 10
Article 22, paragraph 2, point (a)

(a) personal details of the applicant, and, ***where appropriate***, the members of his family (full name and where appropriate, former name; nicknames or pseudonyms; nationality, present and former; date and place of birth),

(a) personal details of the applicant, and, ***insofar as this is necessary to establish which State is responsible for considering the asylum application***, the members of his family (full name and where appropriate, former name; nicknames or pseudonyms; nationality, present and former; date and place of birth),

Amendment 25
Article 22, paragraph 6

6. The exchange of information shall be effected at the request of a Member State and may only take place between authorities the designation of which by each Member State has been communicated to the Commission, which shall inform the other Member States thereof.

6. The exchange of information shall be effected at the request of a Member State and may only take place ***for the purpose of determining the Member State responsible for examining the application and*** between authorities the designation of which by each Member State has been communicated to the Commission, which shall inform the other Member States thereof.

European Parliament legislative resolution on the proposal for a Council regulation establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national (COM(2001) 447 – C5-0403/2001 – 2001/0182(CNS))

(Consultation procedure)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2001) 447¹),
 - having regard to Article 63 of the EC Treaty,
 - having been consulted by the Council pursuant to Article 67(1) of the EC Treaty (C5-0403/2001),
 - 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 and the opinion of the Committee on Petitions (A5-0081/2002),
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 304 E, 30.10.2001, p. 192.