



Common European Asylum System: what's at stake?

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On 12 June, MEPs are expected to approve the architecture of the new EU asylum policy, which lays down common procedures and deadlines for handling applications, ensures a basic set of rights for asylum seekers from the moment they enter the EU and bans transfers of asylum applicants to member states unable to ensure decent living conditions for them.

The new rules, already agreed by Parliament and national governments, will be debated by Parliament as a whole on 11 June and put to a vote the next day. Some 330,000 asylum applicants were registered in EU countries in 2012.

Next steps

If Parliament approves these rules, the new system take effect in the second half of 2015.

The Dublin rules on transfers of asylum seekers will take effect six months after their legal entry into force (i.e. at the start of 2014).

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Background

Better reception conditions

The Parliament/Council deal lays down a set of standards for the reception and treatment of asylum seekers. The new law amends the current directive dating from 2003.

Detention grounds

Under the agreed text, an asylum seeker may only be detained for a limited number of reasons, namely to check his identity, to verify the elements of his application, to decide on his right to enter the member state's territory, to protect national security and public order, to prepare for return to his home country or for the purpose of transferring him to another EU country.

The 2003 directive did not stipulate any grounds for detention, thus leaving it to member states' discretion.

Detention conditions

As a general rule, if asylum seekers are detained, then they will have to be placed in specialised detention facilities. However, if an EU country cannot provide accommodation in such facilities and is obliged to place the asylum seeker in a prison instead, he will have to be kept separate from ordinary prisoners and given access to open-air spaces. Detained asylum seekers will also have to be given information explaining their rights and obligations in a language that they understand "or are reasonably supposed to understand".

Minors may be detained only as a last resort, for the shortest possible time. Every effort must be made to release them and place them in more suitable centres. Unaccompanied minors may be detained only "in exceptional circumstances" and must not be held in prisons. They must be placed in centres with staff and facilities suited to their needs and also kept separate from adults.

Access to the labour market

Asylum seekers will have the right to begin seeking a job in the member state of reception no later than nine months after filing an application for international protection. Currently, an asylum seeker may begin seeking a job on the national labour market one year after lodging an application.

Special needs

Member states will have to assess after the asylum seeker's arrival whether he needs special attention, such as medical or psychological help.

Background

Common asylum procedures and deadlines

Due to disparities among EU member states' asylum procedures, an asylum seeker's chances of being granted international protection partly depend upon where he lodges the application. To reduce these disparities, Parliament and Council agreed to review the 2005 Asylum Procedures Directive and harmonise procedural guarantees.

Proper training

MEPs inserted stricter rules on the training of all staff, e.g. police and immigration authorities, in contact with asylum seekers. Training guidelines drawn up by the European Asylum Support Office will be included in the new rules. For example, interviewers will be trained to recognise indications of possible past torture.

Special guarantees for vulnerable persons

There will be a new compulsory identification mechanism to ensure that asylum applicants' special needs (due to e.g. age, gender, sexual orientation, disability or illness) are recognised and that they get enough time and adequate support to prepare their cases, and especially the personal interview.

For unaccompanied minors, national authorities will have to appoint a representative, whose role and powers are now specified. EU countries will be able to apply accelerated or border procedures to them only in specific cases and subject to strict safeguards. If, after a medical examination, there are doubts as to a young applicant's exact age, member states will have to assume that he is a minor.

Legal assistance

The new rules also ensure that applicants appealing against an asylum decision may obtain free legal information and assistance on request. Under strict conditions, national authorities may refuse to provide such service when the appeal does not have "tangible prospect of success". The legal adviser will have access to closed areas, such as detention facilities and transit zones.

Stricter deadlines

Currently, EU law does not impose any explicit deadlines on member states for deciding on asylum applications. Under the new rules, EU countries will have a standard six-month deadline to decide on asylum applications. They will be able to postpone their decisions only for a further nine months, in three limited and now well-defined cases.

EU countries may also extend this deadline if there is a temporarily uncertain situation in the country of origin (such as the current situation in Syria). MEPs have ensured that in such cases national authorities will have to review the situation at least every six months. In any event, EU countries will not be able to take more than 21 months to process an asylum application.

Background

Transfers of asylum seekers between EU countries

The changes will also update the 2003 "Dublin" regulation, which lays down criteria for determining which country is responsible for processing an asylum application. This is necessary to prevent asylum seekers from filing multiple applications in different countries.

The regulation also aims to ensure that asylum seekers are not sent from one state to another, with none accepting responsibility. Usually, the country deemed responsible is that through which the asylum seeker first entered the EU.

The deal will make it impossible to transfer asylum seekers to member states where "there are systemic flaws in the asylum procedure and reception conditions (...) resulting in risk of inhuman or degrading treatment". This is in line with rulings by the European Court of Justice and the European Court of Human Rights.

Early-warning mechanism

The new rules introduce an early-warning and crisis management mechanism, to help remedy the root causes of dysfunctions in national asylum systems, or problems stemming from particular pressures, before they become fully-fledged crises. It will also address crises speedily, by requiring the member state concerned to put in place a crisis management plan within three months. The Commission and the European Asylum Support Office will monitor the execution of the plan.

Stronger protection for asylum seekers

The agreement provides for stronger protection for asylum seekers, such as the right to a personal interview to help determine which member state is responsible for processing an application. Furthermore, EU countries will be obliged to provide free legal assistance on request in the event of a review of a transfer decision, unless a court decides that such an appeal has no tangible prospects of success.

Member states will also have to give asylum seekers more information about their rights. Unaccompanied minors without parents in the EU will have the right to be reunited with grandparents, siblings or aunts and uncles living there. The agreed text will also allow married minors, whose spouses are not legally present in the EU, to be reunited with their parents or other adults legally responsible for them.

Appeal against a transfer decision

Asylum seekers will have the right to appeal against a decision to be transferred to another EU state. They will also have the right to ask to remain in the member state where they are, pending a decision on the appeal. This means that the transfer could be provisionally suspended by the decision of a national court. Until such a decision is taken, the person will have the right to stay in the same country.

Background

Police access to asylum seekers' fingerprints

Eurodac stores the fingerprints of asylum seekers aged over 14. Since 2003 it has been used to help determine which member state is responsible, under the Dublin regulation, for dealing with asylum applications.

To address data protection concerns and help combat terrorism and serious crime, the European Commission proposed in May 2012 to allow national police forces and Europol to compare fingerprints linked to criminal investigations with those contained in Eurodac.

MEPs agreed to allow police access to Eurodac, but inserted stricter data protection provisions and new safeguards to ensure that data is not used for purposes other than fighting terrorism and serious crime and that police access is possible only if there is an overriding public security concern which makes such a request proportionate.

Police access to Eurodac will not affect the right of asylum seekers to have their applications for international protection duly processed, says the agreed text. The police will be able to ask to compare fingerprint data with those stored in Eurodac (unless there are reasonable grounds to believe that such comparison would not be relevant), but only after checking their own national databases and those of all EU countries as well as the Visa Information System.

Background

Other parts of the new asylum policy approved in recent years

- Qualification (adopted by Parliament in October 2011). This 2004 directive deals with the conditions that need to be met for an individual to qualify for "refugee status" or "subsidiary protection status". It removed differences between the two statuses as regards access to the labour market, education and healthcare.
- EU resettlement programme (adopted by Parliament in March 2012). This is designed to resettle in the EU people who have been granted refugee status in third countries (for example, Syrian refugees in Turkey). As the host states are often developing countries with limited resources, they cannot accommodate and protect large numbers of refugees. The EU programme is voluntary and includes financial support for member states.
- European Asylum Support Office (adopted by Parliament in May 2010). The EASO was established to boost cooperation among EU countries on asylum matters and help them to fulfil their obligation to give protection to people in need. It was officially inaugurated in Malta in June 2011.

Background

More information

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