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DRAFT REPORT

on the policy plan on asylum – an integrated approach to protection across the EU
(2008/2305(INI))

Committee on Civil Liberties, Justice and Home Affairs

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CONTENTS

Page

MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION 3

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on the policy plan on asylum – an integrated approach to protection across the EU (2008/2305(INI))

The European Parliament,

– having regard to Article 63, paragraphs 1 and 2, of the EU Treaty,

– having regard to the Charter of Fundamental Rights of the European Union, proclaimed on 7 December 2000,

– having regard to the 1051 Geneva Convention relating to the Status of Refugees, and the 1967 Additional Protocol thereto,

– having regard to Council Regulation (EC) No 343/2003 of 18 February 2003 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,

– having regard to Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers (Reception Conditions Directive),

– having regard to Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status (Asylum Procedures Directive),

– having regard to Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted,

– having regard to the report from the Commission to the Council and to the European Parliament on the application of Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers (COM(2007)0745),

– having regard to its resolution of 14 April 2005 on Lampedusa[1],

– having regard to its resolution of 6 April 2006 on the situation with refugee camps in Malta[2],

– having regard to its resolution of 21 June 2007 on asylum: practical cooperation, quality of decision-making in the common European asylum system[3],

– having regard to its Resolution of 2 September 2008 on the evaluation of the Dublin

[1] OJ C 33 E, 9.2.2006, p. 598.
[2] OJ C 293 E, 2.12.2006, p. 301.
[3] OJ C 146 E, 12.6.2008, p. 364.

system[1],

– having regard to the reports of the Committee on Civil Liberties, Justice and Home Affairs on the visits to various holding centres in order to monitor reception conditions,

– having regard to the judgment of the Court of Justice of the European Communities of 6 May 2008 in Case C-133/06, European Parliament v Council of the European Union[2] concerning an action for annulment of Directive 2005/85/EC on minimum standards on procedures in Member States for granting and withdrawing refugee status, seeking in particular annulment of the directive's provisions on the procedure for adoption and amendment of minimum common lists of safe countries,

– having regard to the European Pact on Immigration and Asylum adopted by the European Council of 15-16 October 2008, whose fourth objective is to 'construct a Europe of Asylum',

– having regard to Rule 45 of its Rules of Procedure,

– having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinion of the Committee on Development (A6-0000/2008),

A. whereas the legislative instruments relating to the first phase of the establishment of the common European asylum system have allowed the introduction of common minimum standards but not of equal conditions of access to protection throughout the EU and, as a result, there are still problems such as secondary movements and multiple applications,

B. whereas the 'historically low' levels of asylum applications in most Member States reported by the Commission in its Policy Plan are due, in particular, to problems of access to protection relating to the fight against illegal immigration, the low rate of recognition which, in some cases, discourages potential applicants, and the incomplete information supplied to them on arrival in the EU,

C. whereas the Dublin system can result in a disproportionate burden being imposed on some Member States, simply as a result of their exposed location,

D. whereas, in its evaluation report on the Reception Conditions Directive, the Commission notes serious problems in the implementation of the directive, in particular in closed centres and transit zones, as the parliamentary delegations were able to note at first hand during their many visits,

General considerations

1. Regrets that there are plans to put back to 2012 the deadline for completion of the second phase of the common European asylum system, which is due to put an end to the unhealthy disparities between the asylum systems of Member States;

2. Stresses that the harmonisation of standards leading to a common asylum procedure and

[1] *Texts adopted* of that date, P6_TA-PROV(2008)0385.
[2] OJ C 158, 21.6.2008, p. 3.

uniform asylum status should result in a high level of protection throughout the EU and should not be based on the lowest common denominator, which would deprive the common asylum scheme of its added value;

3. Draws attention to the fact that the Union should provide for mechanisms at the external borders to identify asylum seekers and ensure that persons entitled to international protection gain access to its territory, including in the context of its external border control operations;

4. Calls for the Frontex Agency to provide detailed data relating to the number of asylum seekers identified as such during its operations and the plight of persons turned back during such operations;

Improvement of existing legislation

5. Welcomes the fact that, in its judgment on Case C-133/06 of 6 May 2008, the Court of Justice annulled paragraphs 1 and 2 of Article 29 and paragraph 3 of Article 36 of the Asylum Procedure Directive, which concerned the adoption or amendment of a minimum common list of safe countries of origin and a common list of safe third countries;

6. Welcomes the positive initiatives carried out in some Member States to welcome asylum seekers – on submission of their request for international protection – in facilities that are open and fully integrated with local communities;

7. Considers that asylum seekers are vulnerable persons who require appropriate reception conditions; draws attention to the fact that a prison environment can under no circumstances help them to overcome the traumas experienced in their countries of origin or during their journey to Europe;

8. Regrets the fact that, in several Member States, asylum seekers are still detained following their irregular entry into the country, and therefore welcomes the Commission's intention of inserting into the Reception Conditions Directive procedural guarantees relating to detention;

9. Considers that the scope of the new Reception Conditions Directive must be clarified in order to cover holding centres, transit areas and border procedures;

10. Recommends the establishment, in the Reception Conditions Directive, of a formal system to identify vulnerable persons, in particular unaccompanied minors, dependent elderly persons, disabled persons, pregnant women, single parents with children and persons who have suffered traumatic experiences (torture, rape, and psychological, physical and sexual violence);

11. Considers that a single asylum application procedure should be established, covering all requests for 'international protection' (refugee status, subsidiary protection and temporary protection);

12. Welcomes the fact that the Commission plans to clarify the conditions for granting subsidiary protection, and above all that it is suggesting that the level of entitlements and

benefits to be granted to beneficiaries of this type of protection be reviewed;

13. Considers it desirable to pool the information on countries of origin available to the various Member States and encourages the Commission to step up its efforts to set up a common databank;

14. Considers that, when the Dublin regulation is revised, provision should be made for a mechanism to freeze transfers to Member States that are not in a position to deal adequately with requests owing to their limited reception capacities;

Administrative structures

15. Firmly supports the establishment of a European Support Office, which should work in close cooperation with the Office of the United Nations High Commissioner for Refugees and with NGOs specialised in asylum matters;

16. Considers that one of the tasks of the Support Office should be to conduct a detailed assessment of the remaining disparities between national asylum systems so as to contribute to their improvement;

17. Strongly encourages the Commission to pursue its efforts to establish a common European training programme on asylum, given that the quality of decisions adopted in this area is directly linked to that of the training and information provided for decision-makers at national level; takes the view that a consultation of civil society organisations specialised in this area with a view to drawing up training programmes would guarantee effectiveness in this matter;

Integration of beneficiaries of international protection

18. Regrets that the rules laid down by the Dublin system to determine which country is responsible for consideration of an asylum request do not take account of the wishes of applicants, and considers that certain criteria relating to family, cultural and linguistic considerations should be given greater consideration in such decisions with a view to promoting the integration of asylum seekers;

19. Considers that an initial step in taking due account of the wish of asylum seekers to have their application considered in the Member State in which they have chosen to submit it would be to set up a mechanism enabling Member States to conclude bilateral agreements, under the Commission's supervision, relating to the 'annulment' of the transfer of an equivalent number of asylum seekers, with their agreement and with due respect for their rights, in particular as regards family reunification;

20. Urges the Council to reach an agreement on the extension of the scope of the directive on long-term resident status to cover refugees and beneficiaries of subsidiary protection;

21. Welcomes the Commission's intention of proposing an amendment to the Reception Conditions Directive in order to provide applicants with simplified access to the labour market, given that their integration into working life constitutes an essential prerequisite for their integration;

22. Stresses the need to improve access for beneficiaries of subsidiary protection to social and economic rights, given that this is essential to their integration;

Solidarity mechanisms

23. Considers that one of the objectives of the common European asylum system should be to set up effective solidarity mechanisms in order to improve the situation of countries with the greatest flows of asylum seekers and experiencing difficulties in guaranteeing adequate reception conditions, processing applications within the prescribed time limits and procedures or integrating applicants who have been granted refugee status;

24. Takes the view that solidarity cannot be confined to the granting of financial resources and that provision should be made for internal resettlement mechanisms which, on a voluntary basis, would enable beneficiaries of international protection to be received by a Member State other than the country which has granted them the benefit of that protection;

25. Considers that consideration should be given to extending the scope of Directive 2001/55 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons to enable, in particular, specific categories of persons requiring international protection for a provisional period to be received even where there is no mass influx;

26. Encourages the creation, under the aegis of the future Support Office, of teams of asylum experts who can assist Member States experiencing sudden and mass influxes of asylum seekers with which they cannot cope;

27. Welcomes the fact that the Commission intends to launch a study to review the means of improving financial solidarity within the EU, and looks forward with interest to the proposals that will be drawn up in this context;

Cooperation with third countries

28. Looks forward to the assessment of the regional protection programmes due to take place in 2008, according to the Commission's Policy Plan, and calls on the Commission to improve coordination of the measures taken by its various services in this context with a view to optimising synergies between them, and to report to Parliament on steps taken in this connection;

29. Recognises the importance of strengthening the reception capacities of first-asylum countries and of setting up, at European level and in close cooperation with the Office of the United Nations' High-Commissioner for Refugees, a resettlement programme laying down common criteria and coordination mechanisms;

30. Notes with great interest the idea of setting up 'Protected Entry Procedures' and strongly encourages the Commission to give due consideration to the specific procedures for and the practical implications of such measures;

31. Looks forward with interest to the results of the study on the joint processing of asylum

applications outside EU territory which the Commission plans to conduct in 2009, and warns against any temptation to transfer responsibility for welcoming asylum seekers and processing their requests to third countries or the Office of the United Nations High-Commissioner for Refugees;

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32. Instructs its President to forward this resolution to the Council, the Commission and the United Nations High Commissioner for Refugees.