



# Asylum seekers: no transfers to EU countries unable to cope

Committees: Committee on Civil Liberties, Justice and Home Affairs

**Asylum seekers in the EU would be better protected, and would not be transferred to EU countries where there is a risk of inhuman or degrading treatment, under changes to EU asylum legislation endorsed by the Civil Liberties Committee on Wednesday. Parliament is expected to adopt the new law by the end of the year.**

The changes would update the "Dublin" regulation, which lays down criteria for determining which member state is responsible for examining an application for international protection. This is necessary to prevent asylum seekers from filing multiple applications or applying to a state of their choice after transiting through other EU countries. The regulation also precludes situations in which asylum seekers are 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.

"In an ideal world, the Dublin II regulation should not be needed. But now we are creating a new regulatory framework that provides stronger legal guarantees for individual refugees and clear rules for member states to live up to. We have agreed on the most difficult issues, such as definition of 'family', the rights of unaccompanied minors and clearer rules and time limits on locked detention for refugees. The aim is to create a humane asylum system by the end of the year", said Parliament's rapporteur Cecilia Wikström (ALDE, SE), following the Civil Liberties Committee's political endorsement.

## Dublin transfers and fundamental rights

MEPs sought in negotiations with the Council to include in the new regulation a clear reference to "solidarity" with member states under pressure and an obligation to protect asylum seekers' fundamental rights.

Parliament's representatives inserted a provision that would 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 recent rulings by the European Court of Justice and the European Court of Human Rights.

## Early-warning mechanism

The draft regulation would 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. This mechanism is also designed to address a crisis speedily and effectively, by requesting the member state concerned to put in place a crisis management action plan within 3 months. The European Commission and the European Asylum Support Office (EASO) would monitor the execution of the plan.

## Stronger protection for asylum seekers

# Press release

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 would be obliged to provide free legal assistance on request in the case of a review of a transfer decision, unless a court decides that there are no tangible prospects of success for such an appeal. Member states would also have to give asylum seekers more information about their rights and unaccompanied minors without parents in the EU would obtain the right to be reunited with grandparents, siblings or aunts and uncles living there. The agreed text would also allow married minors, whose spouses are not legally present in the EU, to be reunited with their parents or other adults responsible for them by law.

## **Appeal against a transfer decision and detention**

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

As a general rule, the new regulation would introduce a single ground for detention in cases where there is a significant risk of absconding, and limit the detention period to a maximum of three months.

## **Next steps**

The draft regulation was approved with 41 votes in favour, 5 against and 10 abstentions. The Cyprus Presidency is negotiating within the Council the remaining pending issues. Member States will have to endorse the agreed text, which would then come back to Parliament. The final text is expected to be voted in plenary by the end of the year. The Dublin II regulation is one of the five acts forming the backbone of the Common European Asylum System (CEAS).

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