



**COUNCIL OF
THE EUROPEAN UNION**

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NOTE

from:	Presidency
to:	Permanent Representatives Committee / Council
Subject:	Common European Asylum System = State of play

As stipulated in the Stockholm Programme and confirmed by the European Council in June 2011, the completion of the Common European Asylum System by 2012 remains a key objective of the EU. In 2012, the Council preparatory bodies have already conducted a number of discussions on the different files that form the Common European Asylum System.

The Joint EU Resettlement Scheme was discussed intensively in January 2012, upon which the Permanent Representatives Committee mandated the Presidency to conduct informal trilogues with the European Parliament. On the basis of negotiations with the Parliament, solutions to all outstanding issues were found, and the Council will adopt the Joint EU Resettlement Scheme on 8 March 2012.

Together with the already adopted amendment to the Directive on Long Term Residents and the adoption of the Qualification Directive as well as the EASO Regulation, the Decision modifying the Refugee Fund concerning the financing of the Joint EU Resettlement Scheme is yet another important element of the Common European Asylum System.

As the negotiations on the remaining dossiers progress from expert to political level, the main outlines of discussions on the outstanding legislative proposals to be conducted with the European Parliament become increasingly clear.

Reception Conditions Directive

Building on the progress achieved under previous presidencies, discussions have been conducted at a more political level since the beginning of 2012 and progress has been made on several topics, including the provisions on detention.

On 22 February 2012, the Permanent Representatives Committee conducted a first discussion on the Reception Conditions Directive. As indicated by the Presidency, two main issues remained open; grounds for detention (Article 8) and access to labour market for asylum applicants (Article 15). The Permanent Representatives Committee acknowledged the Presidency's compromise proposal for a list of grounds for detention. However, a solution is not yet found to the question of access to labour market for asylum applicants.

Four other issues were described to the Permanent Representatives Committee, including the definition of family members (Article 2 (c)), material reception conditions (Article 17(5)), identification of the special reception needs of vulnerable persons (Article 22) and free legal assistance and representation (Article 26). The discussions on those four topics have been constructive and progress has been achieved overall.

The Presidency will shortly present the Reception Conditions Directive to the Permanent Representatives Committee once more with the aim of inviting the Committee to seek agreement on the abovementioned issues, in particular on access to the labour market, with a view to authorizing the Presidency to seek a pre-negotiated second reading agreement with the European Parliament.

Dublin Regulation

In 2012, the discussions on the proposal for amending the Dublin Regulation have been conducted on the entire Dublin Regulation. Progress has been made on the definitions of family members and the provisions on the applicants' right to information, the personal interview, guarantees for unaccompanied minors and dependents, and detention.

Furthermore, a possible way forward has been found on the definition of relatives in accordance with the provision on unaccompanied minors and on relations in accordance with the provision on dependents. Discussions on remedies have been initiated, but further discussions remain necessary.

Intensive discussions have been conducted on the wording of the provision in the Dublin Regulation establishing a mechanism for early warning, preparedness and crisis management for situations of particular pressures or deficiencies that could affect the functioning of the Dublin Regulation, enabling the Dublin Regulation to contain a concise clause setting out the structure of the mechanism. The mechanism currently included in the draft Dublin Regulation contains provisions on a preventive action plan followed by a crisis management action plan, where the preventive action does not remedy the situation and/or where there is a serious risk that the asylum system in the Member State concerned develops into a crisis. Throughout the entire process, the Council will follow the situation and may request more information or provide political guidance, including on any measures of solidarity as it deems appropriate. Furthermore, the provision foresees the assistance of EASO and other relevant EU-agencies where appropriate.

The Presidency intends to present the draft Dublin Regulation to the Permanent Representatives Committee shortly with the aim of inviting the Committee to seek agreement on the abovementioned issues with a view to authorizing the Presidency to seek a pre-negotiated second reading agreement with the European Parliament.

The discussion on the mechanism for early warning, preparedness and crisis management is supplemented by the Council Conclusions on A Common Framework for genuine and practical solidarity towards Member States facing particular pressure on their asylum systems, including through mixed migration flows. The Presidency expects the Council Conclusions to be adopted on 8 March 2012.

Asylum Procedures Directive

On the Asylum Procedures Directive, progress has continued through the negotiations in 2012. In particular, progress has been made on the issues of access to the procedure, handling of applicants with special procedural needs and concerning the applicability of accelerated procedures.

Compromise proposals have been discussed at the level of the Asylum Working Party and the Strategic Committee for Immigration and Asylum.

Further discussion continues to be necessary on key elements of the recast proposal such as the relation between the Asylum Procedures Directive and the Dublin Regulation, guarantees for unaccompanied minors, subsequent applications and concerning the right to an effective remedy.

Eurodac Regulation

Negotiations on the proposal for amendment of the Eurodac Regulation remain on hold due to the fact that an overwhelming majority of delegations continue to support the inserting of provisions currently not proposed by the Commission in the EURODAC Regulation enabling Member States to allow their law enforcement authorities' access to the EURODAC central database under strict conditions on data protection for the purposes of fighting terrorism and organised crime.
