Report from the Commission on the evaluation of the Dublin system

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The European Parliament adopted by 609 votes to 53, with 30 abstentions, a resolution on the Commission's evaluation of the Dublin system and stressed that this system remains largely inadequate from both the technical and the human viewpoints.

The own initiative report had been tabled for consideration in plenary by Jean **LAMBERT** (Greens/EFA, UK) on behalf of the Committee on Civil Liberties, Justice and Home Affairs.

Efficiency of the system and responsibility sharing: the Parliament strongly believes that unless a satisfactory and consistent level of protection is achieved across the European Union, the Dublin system will always produce unsatisfactory results from both the technical and the human viewpoints, and asylum seekers will continue to have valid reasons for wishing to lodge their application in a specific Member State to take advantage of the most favourable national decision-making process. It also strongly believes that in the absence of a genuine common European asylum system and a single procedure **the Dublin system will continue to be unfair** both to asylum seekers and to certain Member States. The quality and the consistency of the decision-making process must therefore be improved. In this respect, the Parliament considers that a European Asylum Support Office could play a valuable role by providing expert support teams. In this context, the Parliament calls on the Commission to:

- consider ways of providing UNHCR with direct financing in order to enable it to enhance its monitoring and advisory work in the EU;
- bring forward proposals for burden-sharing mechanisms which could be put in place in order to help alleviate the disproportionate load which could fall on certain Member States, in particular the border Member States, but do not fit into the Dublin system; for the others, the Parliament calls for the provision of mechanisms other than financial to correct the adverse effects of the implementation of this system for the smaller Member States at the Union's external borders;
- provide for a binding mechanism to stop transfers of asylum applicants to Member States that do not guarantee full and fair treatment of their claims.

Under an amendment proposed by the PES-GUE/NGL-Greens/EFA groups, the plenary also calls on the Commission to establish meaningful bilateral working relations with third countries (and not just with Libya, as requested by the committee) in order to facilitate cooperation and ensure that such third countries meet their international legal obligations with regard to the Geneva Convention.

Rights of the claimants: the Parliament calls for additional provisions concerning the means by which the persons seeking protection are informed of the implications of the Dublin Regulation. In this context, it suggests drafting a standard leaflet which could be translated into a certain number of languages and be distributed to all Member States. Among the other measures proposed, the Parliament asks the Commission to amend Articles 19 and 20 of the Dublin Regulation on 'taking charge and taking back', so as to provide applicants with an automatic suspensory right of appeal against a decision to transfer responsibility to another Member State. The Parliament also reaffirms that the principle of **non-refoulement** should remain one of the cornerstones of any common asylum system at European Union level. According to the Parliament, the implementation of the Dublin Regulation should never lead to a claim being closed for procedural reasons and not reopened for a full and fair examination of the original

claim after a transfer via the Dublin process. This should be made clear in the Regulation. The Parliament also calls on the Commission to assess the possibility for individuals concerned by a transfer to be able to be transferred to their country of origin, solely at their express request.

Family reunification and the principle of the best interest of the child: once again, the Parliament reaffirms the principle of the best interest of the child and recommends that a set of common guidelines on age-assessment be adopted so that the benefit of the doubt is always given to the child. Unaccompanied minors should never be detained or transferred to another Member State, except for the sake of family reunification. Overall, the Parliament welcomes the Commission's intention to extend the scope of the Dublin Regulation to include subsidiary protection, as this should enable applicants for subsidiary protection to be reunited with family members. Furthermore, the Parliament considers that the definition of a 'family member' under the current Regulation is too restrictive and therefore asks the Commission to extend the present definition to include all close relatives and long-term partners, and adult children unable to care for themselves.

Detention: in terms of detention, the Parliament calls on the Commission to add a provision restricting the detention of Dublin claimants to a measure of last resort. The Commission must specify the grounds on which detention may be employed and the procedural safeguards which should be provided for. Furthermore, the Parliament considers that Dublin claimants should be entitled to the **same reception conditions as other asylum seekers**, particularly regarding material reception conditions, health care, freedom of movement and the schooling of minors.

Humanitarian and Sovereignty Clauses: overall, the Parliament is satisfied with the humanitarian clause contained in the Dublin Regulation but considers that it should be applied more widely. It specifies that in cases where an asylum seeker is in a particularly vulnerable state owing to a serious illness, a severe disability, etc.,...and they are dependent on the assistance of a relative present in the territory of a Member State other than the one in charge of the examination of the application, they should be reunited with that relative. The Parliament therefore calls for the relevant provisions of the humanitarian clause to be revised in order to make it more flexible. It also welcomes the Commission's intention to better define the circumstances and procedures for applying the Sovereignty clause (which enables any Member State to examine an application for asylum even if this examination is the responsibility of another Member State).

Data-collection and Eurodac: the Parliament expresses its concern at the deficiencies in the collection of data sent to the Eurodac Central Unit, as well as regarding non-compliance with the obligation to delete certain data and with the rules relating to the protection of personal data. These failings call into question the reliability of Eurodac and must be addressed. Lastly, the Parliament stresses that extending access to the Eurodac database to Member States' police and law-enforcement authorities as well as Europol entails the risk that information may pass to third countries, which could have negative repercussions for asylum seekers. This would also increase the risk of asylum seekers being stigmatised. That is why the Parliament considers that each Member State should clarify, on a closed list, the agencies and authorities that have access to the Eurodac database, and for what purpose, in order to prevent any illegal use of data.