

International protection: criteria and mechanisms for determining the Member State responsible for examining an application lodged by a third-country national or a stateless person. Recast

2008/0243(COD) - 18/02/2009 - Document attached to the procedure

OPINION OF THE EUROPEAN DATA PROTECTION SUPERVISOR on the Proposal for a Regulation of the European Parliament and of the Council establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (Recast of the “Dublin Regulation”).

The proposal to recast the Dublin Regulation was sent by the Commission to the EDPS for consultation on 3 December 2008. This consultation should be explicitly mentioned in the preamble of the Regulation.

To recall, the EDPS contributed to the proposal at an earlier stage, and many of the points he raised informally during the preparatory process have been taken into account by the Commission in its final text of the Proposal.

The main conclusions may be summarised as follows:

- the EDPS supports the Commission's Proposal and shares the understanding of the reasons to revise the existing system;
- he welcomes the consistency of the Commission's Proposal with other legal instruments regulating the complex legal framework of this area;
- he welcomes considerable attention devoted in the Proposal to the respect of fundamental rights, in particular the protection of personal data. He considers this approach as an essential prerequisite to the improvement of the Dublin procedure.

Exchange of personal data: the EDPS draws particular attention of the legislators to the **new mechanisms of exchange of data**, which will involve, amongst others, the extremely sensitive personal data of the asylum seekers. The EDPS also wishes to refer to the important work undertaken in this area by the Eurodac Supervision Coordination Group and believes that the results of the Group's work can usefully contribute to a better formulation of the features of the system.

The EDPS notes that relatively little has been regulated in the framework of the Dublin system as regards the exchange of personal information. Although certain aspects of the exchange have already been addressed in the Dublin Implementing Regulation, the current regulation does not seem to cover all aspects of the exchange of personal information, which is regrettable.

DubliNet: the EDPS considers that some of the observations made in this opinion can be further developed when seeing the practical implementation of the revised system. In particular, he intends to contribute to the definition of implementing measures concerning the exchange of information through the DubliNet.

The EDPS stresses that it is important that the Member States authorities exchange information about individuals using the DublinNet network. This allows not only to provide for better security but also to ensure better traceability of the transactions. He insists that the possibility to derogate from the use of DublinNet should be **interpreted restrictively**.