Implementation of the Dublin III Regulation

2019/2206(INI) - 17/12/2020 - Text adopted by Parliament, single reading

The European Parliament adopted by 448 votes to 98 against, with 149 abstentions, a resolution on the implementation of the Dublin III Regulation.

The resolution stated that 1 393 920 asylum seekers applied for international protection in EU+ countries in 2015 and 1 292 740 in 2016, a fourfold increase compared to 2012 and 2013. The number of applications for international protection in EU+ countries rose again between 2018 (665 920) and 2019 (738 425), representing 0.13% of the total EU population in 2019. Children account for almost half of all asylum applications in the EU.

Parliament found that the Dublin III Regulation, in its design and implementation, had not achieved its main objective, namely the rapid determination of the Member State responsible for an asylum application, and therefore failed to ensure a fair distribution of responsibility between Member States and rapid access to asylum procedures.

Integrating the principle of solidarity into the Common European Asylum System

The current Dublin III Regulation places disproportionate responsibility on a minority of Member States who are on the front line especially when there are large numbers of arrivals.

Parliament therefore believes that the EU needs a sustainable solidarity mechanism, which sets fair rules for allocating responsibility between Member States in full respect of asylum seekers' fundamental right to safety and protection. It also considers it essential to provide more resources and capacity to Member States on the front line, for example through the European Asylum Support Office (EASO).

According to Members, the protection of the fundamental rights of asylum seekers should always remain at the heart of this mechanism, which should allow the participation of civil society organisations that provide professional assistance, particularly of a legal nature, to people in need of international protection.

Member States are called on to make better use of the ‘discretionary clause’ which allows a Member State to take charge of an asylum application even if it has not been designated as the Member State responsible under the Dublin III Regulation, in order to address difficult situations and humanitarian emergencies in the absence of a permanent solidarity mechanism.

Members regretted that the Council, contrary to Parliament, has not taken a position on the ‘Dublin IV’ recast proposal, believing that this blockage could be interpreted as a violation of the principle of loyal cooperation between the EU institutions.

Protecting fundamental rights

Parliament recalled that the protection of fundamental rights should be at the centre of all measures taken to implement the Dublin III Regulation, including the protection of children, victims of trafficking, LGBTI persons and any other person in a vulnerable situation.

In particular, the resolution emphasised:

- the right of asylum seekers to be fully informed about the procedures;

- the proper assessment of the risks to which applicants may be exposed in the Member States of destination;

- the principle that detention of asylum seekers under the Dublin procedure can only be imposed as a measure of last resort and that the duration of detention should be as short as possible;

- the overriding importance of the ultimate objective of protecting children, for example from trafficking, in order to ensure migrant children have rapid access to education, health care and appropriate accommodation;

- the need to harmonise the standard of proof required for family reunification in the direction of more achievable standards and requirements;

- the priority given to taking into account the best interests of the child in all Dublin procedures.

Simplifying procedures, significantly reducing delays and defending the right to an effective remedy

Parliament notes that shortcomings in the structural organisation, resources and functioning of the national asylum authorities have contributed to delays in the Dublin procedures and hampered the application of the Regulation.

In particular, Members mentioned the lack of human resources in national 'Dublin' units, the lack of cooperation and information sharing between Member States which undermines the principle of solidarity in the EU, the excessive and inappropriate application of the 'irregular entry' criterion which places a disproportionate burden on countries of first entry, the lack of clarity in calculating time limits and determining when to start each procedure.

The resolution also noted the persistence of problems at Member State level, such as limited access to independent legal representatives in remote asylum centres, low rates of financial remuneration for legal assistance, inadequate premises for preparatory and private interviews, and insufficient legal aid for applicants in detention centres.

The Commission is called on to assess the overall implementation of the CEAS, as well as any gaps and shortcomings in the Dublin III Regulation that lead to a disproportionate burden of responsibility being placed on countries at the external borders of the EU.

Strengthening governance and convergence between Member States

Parliament stressed that Member States could, with the assistance of and in coordination with the Commission, draw up prevention plans where the application of the Regulation may be jeopardised due to a substantiated risk of particular pressure on Member States' asylum systems and/or to problems in the functioning of their asylum systems.

These preventive measures may take into account the information provided by the Commission and the EASO and may lead to genuine and practical solidarity, on the one hand with Member States whose asylum systems in general are under particular strain, and on the other hand with asylum seekers, and would allow better preparation in case of a new asylum crisis.