Asylum: state responsible for examining a request, agreement EC/Iceland and Norway

2001/0031(CNS) - 29/01/2001 - Legislative proposal

PURPOSE: to present a proposal for a Council Decision concerning the conclusion of an agreement between the European Community and the Republic of Iceland and the Kingdom of Norway concenring the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State or Iceland or Norway. CONTENT: According to Article 7 of the Agreement of 18 May 1999 concluded between the Council and Iceland and Norway on the latter's association with the implementation, application and development of the Schengen acquis ('Schengen Framework Agreement), the conclusion of an Agreement on the rights and obligations contained in the Dublin Convention is a precondition for the abolishment of border controls between the Schengen countries and the countries of the Nordic Passport Union. The abolishment is foreseen for 25 March 2001. Apart from authorising the conclusion of the Agreement, the present decision sets out a number of arrangements for the practical application of the Agreement. In particular, it specific that the Commission represents the Community within the Joint Committee set up by Article 3 of the Agreement. Further, given that the Joint Committee has certain decision-making powers, it was necessary to provide for a derived legal base laying down a procedure for the adoption of Community positions within the Joint Committee. Any future decision by the Committee established under the Dublin Convention can be discussed in the Joint Committee but once decisions have been taken, they have to be implemented by Norway and Iceland. Non-acceptance triggers the same procedure as provided for under the Schengen framework agreement (suspension and eventual termination). As for the future "communitarization" of the Dublin Convention, a similar mechanism exists. Norway and Iceland may contribute to the decision-shaping phase but will have to accept the final decisions by the Council (otherwise the Agreement will be suspended and later terminated). Similarly, new provisions related to EURODAC will also have to be accepted in the same fashion. Other provisions contained in the proposed Decision include the following: - the objective of a coherent jurisprudence could be reached by 'copying' the respective provisions in the Schengen acquis Agreement; - the Data Protection Directive will be applied by Iceland and Norway in the same way as it is appled by the Member States; - the clause on the territorial application will, on the EU side, ensure parallelism with the Dublin Convention and in particular, it takes into account the issue of Gibraltar; - the specific situaiton of Denmark is considered; - the budgetary clause is mostly based on a similar provision in the Schengen Framework Agreement. In conclusion, the Commission considers negotiations have been successful and that the draft Agreement is acceptable to the Community.