

Asylum: state responsible for examining a request lodged in a Member State, Protocol to the EC/Iceland and Norway agreement

2005/0031(CNS) - 08/04/2005 - Legislative proposal

PURPOSE: to sign and conclude a Protocol to the Agreement between the European Community, Iceland and Norway concerning the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State or in Iceland or Norway.

PROPOSED ACT: Council Decision.

CONTENT: on 19 January 2001, the European Community concluded an Agreement with Iceland and Norway concerning the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State or in Iceland or Norway. Article 12 of that Agreement states that Denmark may request to participate in the Agreement, and that the conditions for such participation are to be determined by the Community, Norway and Iceland, acting with the consent of Denmark, in a Protocol to the Agreement.

Pursuant to Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on European Union and the Treaty establishing the European Community, Denmark did not take part in the adoption by the Council of Regulation 343/2003/EC (Dublin II) establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national and Council Regulation 2725/2000/EC concerning the establishment of "Eurodac" for the comparison of fingerprints for the effective application of the Dublin Convention. However, Denmark is a party to the Convention determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities ("the Dublin Convention"), signed in Dublin on 15 June 1990.

The negotiations for the conclusion of the Protocol to the Agreement with Norway and Iceland culminated in the initialling of the text on 12 January 2005.

The attached proposal is the legal instrument for signing and concluding the Protocol.

The Commission takes the view that the objectives set by the Council in its negotiating directives have been met and that the draft Protocol is acceptable to the Community. The Protocol comprises a total of six articles. It also has an Annex, which forms an integral part of it.

The final contents of the Protocol can be summarised as follows:

- It makes the Dublin II and Eurodac Regulations and their implementing regulations applicable to relations between Denmark, on the one hand, and Iceland and Norway on the other. It also renders future amendments or new implementing measures applicable to these relations.
- It gives Iceland and Norway the right to present written pleadings or observations to the Court of Justice when a court in Denmark applies to the Court of Justice for a preliminary ruling on the interpretation of a provision of the Agreement between the European Community and Denmark.

- It provides for a conciliation mechanism in the event of disagreement between Denmark on the one hand and Iceland or Norway on the other hand on its interpretation or application.
- It lays down provisions relating to the end of its applicability.

In the light of the above considerations, the Commission proposes that the Council:

- decide that the Protocol be signed on behalf of the Community and authorise the President of the Council to appoint the person(s) duly empowered to sign on behalf of the Community;
- after consulting the European Parliament, approve the Protocol to the Agreement between the European Community, Iceland and Norway concerning the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State or in Iceland or Norway.