Basic information

2008/2235(INI) INI - Own-initiative procedure	Procedure completed
Implementation in the EU of Directive 2003/9/EC on the minimum standards for the reception of asylum seekers: visits by the Committee on Civil Liberties 2005-2008 See also Directive 2003/9/EC 2001/0091(CNS) **Subject** 7.10.06 Asylum, refugees, displaced persons; Asylum, Migration and Integration Fund (AMIF)	

Key players

European Parliament	**Committee responsible**	**Rapporteur**	**Appointed**
	LIBE Civil Liberties, Justice and Home Affairs	ROURE Martine (PSE)	27/02/2008
European Commission	**Commission DG**	**Commissioner**	
	Justice and Consumers	BARROT Jacques	

Key events

Date	Event	Reference	Summary
23/09/2008	Committee referral announced in Parliament		
21/01/2009	Vote in committee		Summary
27/01/2009	Committee report tabled for plenary	A6-0024/2009	
05/02/2009	Decision by Parliament	T6-0047/2009	Summary
05/02/2009	Results of vote in Parliament		
05/02/2009	End of procedure in Parliament		

Technical information

Procedure reference	2008/2235(INI)
Procedure type	INI - Own-initiative procedure
Procedure subtype	Initiative
Amendments and repeals	See also Directive 2003/9/EC 2001/0091(CNS)
Legal basis	Rules of Procedure EP 55-p4 Rules of Procedure EP 55

Stage reached in procedure	Procedure completed
Committee dossier	LIBE/6/66791

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE414.969	22/10/2008	
Amendments tabled in committee		PE418.044	19/01/2009	
Committee report tabled for plenary, single reading		A6-0024/2009	27/01/2009	
Text adopted by Parliament, single reading		T6-0047/2009	05/02/2009	Summary

European Commission

Document type	Reference	Date	Summary
Commission response to text adopted in plenary	SP(2009)1843	18/06/2009	

Implementation in the EU of Directive 2003/9/EC on the minimum standards for the reception of asylum seekers: visits by the Committee on Civil Liberties 2005-2008

2008/2235(INI) - 05/02/2009 - Text adopted by Parliament, single reading

The European Parliament adopted, by 487 to 39 with 45 abstentions, a resolution on the implementation in the European Union of Directive 2003/9/EC laying down minimum standards for the reception of asylum seekers and refugees.

The resolution draws on findings by the Civil Liberties Committee during visits to detention centres for asylum seekers and refugees 2005-2008.

General comments and asylum procedures: Parliament regrets that some visits revealed that the existing directives were being poorly applied, or were not being applied at all, by some Member States. It calls on the Commission to take the necessary measures to ensure that the directives are transposed and complied with more than just formally. Parliament deplores the number of deficiencies regarding the level of reception conditions which mainly results from the fact that Directive 2003/9/EC currently allows Member States a wide margin of discretion concerning the establishment of reception conditions at national level. Therefore, it welcomes the proposal to recast Directive 2003/9/EC (see COD/2008/0244) which should ensure higher standards of treatment for asylum seekers. MEPs call on the Commission to establish, in cooperation with the European Parliament, a permanent system of visits and inspections in the Member States. It hopes that the Committee on Civil Liberties can continue its visits with a view to ensuring that Community law concerning reception conditions and return procedures is complied with.

More solidarity between Member States: Parliament calls on the Member States to show more solidarity - not limited to technical and/or financial solidarity - with the countries most affected by the challenges of immigration. It calls on the Commission to study the possibility of proposing an **EU solidarity instrument** aimed at relieving the burden posed by the high number of refugees received by Member States with external borders, which would be based on the principle of respect for the wishes of asylum seekers and would afford a high level of protection.

As regards the state of play on the implementation of the Directive, this can be summarized as follows:

- **Reception**: Parliament regrets that the open accommodation centres set up by certain Member States have low capacity and do not appear to meet migrants' needs. It calls for priority to be given to the reception of asylum seekers and immigrants in **open reception centres**, rather than in closed units. The Commission is urged to remind Member States that withdrawal or reduction of reception conditions on grounds not included in the Reception Directive is or should be strictly prohibited. Basic reception conditions, such as food, housing and emergency heath care should never be withheld, since their withdrawal may violate asylum seekers' fundamental rights. MEPs also consider it necessary to find a fair balance between speedy procedures, reducing the backlog and fair treatment of each individual case, particularly in accelerated procedure cases.
- **Access to information and right to interpretation**: information about procedures is largely in writing and deadlines are very short, which poses a problem of understanding and constitutes an obstacle to asylum seekers effectively exercising their rights when they submit an application.

Parliament calls for brochures explaining all the rights of asylum seekers to be made available to them in the main international languages and in the languages spoken by a significant number of asylum seekers and immigrants in the Member State concerned. MEPs encourage the Member States to make use of financial assistance under the European Refugee Fund in order to improve access to information and, in particular, to increase the number of languages, or media, in which the information is made available.

- **Legal assistance**: Parliament regrets that access to free legal aid appears limited for asylum seekers and detained irregular immigrants. It urges the Member States to ensure access to legal assistance and/or representation free of charge in all cases where the asylum seeker cannot afford the costs involved.
- **Detention**: Parliament regrets that a number of Member States are making increasing use of detention. It stresses that **a person should not in any event be held in detention for the sole reason that he/she is seeking international protection**. For them, detention must be a measure of **last resort**, proportionate, for the shortest period possible only in cases where other less coercive measures cannot be applied and on the basis of an individual assessment of each case. They are concerned at the prison conditions in which irregular migrants and asylum seekers are detained even though they have **committed no crime**. The dilapidated state of, and lack of hygiene in, certain detention centres is a main concern. MEPs call on the Member States to provide appropriate medical attention in detention centres, including psychological care, day and night. In addition, an annual report should be published on the number and location of closed detention centres, on their operation and on the number of persons held there. The regular inspection of closed detention centres and of the conditions in which people are held there by creating a **national detention centres ombudsman** should be ensured. Parliament calls for **all centres not complying with standards to be closed** as soon as possible.
- **Unaccompanied minors and families**: Parliament calls for the **detention of minors** to be **prohibited** in principle, and for the detention of minors with their parents to be exceptional and having the objective of ensuring that the best interests of the child are served. It points out that all minors have the right to education, whether or not they are in their country of origin. Member States should guarantee that right, including when minors are in detention. Parliament also calls on the Member States to guarantee that unaccompanied minors and families are housed in separate accommodation even in detention, so as to guarantee adequate privacy and family life. An independent legal guardian should be appointed for each **unaccompanied minor** to ensure his or her protection both in waiting areas such as airports, railway stations and throughout the territory of the Member States. The Commission and the Member States are called upon to introduce a proactive duty to trace family members, including for organisations such as the Red Cross and Red Crescent. MEPs are concerned about the phenomenon of unaccompanied minors disappearing and calls on the Member States to gather data and statistics pursuant to Regulation 862/2007/EC concerning the identification of, and provision of assistance to, unaccompanied minors in order to combat this phenomenon. A harmonised and reliable mechanism for identifying unaccompanied minors should be put in place – by making use of the latest technologies such as the use of biometric data – and common rules concerning age disputes. In this regard, Parliament considers that during an age dispute procedure the person concerned must, as a precaution, be considered a minor until the end of the procedure and therefore treated as such.
- **Vulnerable persons**: the Commission is called upon to lay down mandatory common standards for identifying vulnerable persons, particularly victims of torture or human trafficking, people requiring special medical treatment, pregnant women and minors. No vulnerable person, given their particular circumstances, should be placed in detention as that would have serious repercussions for their wellbeing. Member States are urged to provide specialist assistance to vulnerable persons and victims of torture and trafficking, particularly psychological assistance, to ensure their protection. MEPs call for all staff having contact with vulnerable persons, including the officials responsible for asylum applications and the police, to receive specialist training.