

COMMISSION REGULATION (EC) No .../...

of [...]

laying down detailed rules for the application of Council Regulation (EC) No 343/2003 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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 343/2003 of 18 February 2003 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,¹ and in particular Article 15(5), Article 17(3), Article 18(3), Article 19(3) and (5), Article 20(1), (3) and (4) and Article 22(2) thereof,

Whereas:

- (1) A number of specific arrangements must be established for the effective application of Regulation (EC) No 343/2003. Those arrangements must be clearly defined so as to facilitate cooperation between the authorities in the Member States competent for implementing that Regulation as regards the transmission and processing of requests for the purposes of taking charge and taking back, requests for information and the carrying out of transfers.
- (2) To ensure the greatest possible continuity between the Convention determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities,² signed in Dublin on 15 June 1990, and Regulation (EC) No 343/2003, which replaces that Convention, this Regulation should be based on the common principles, lists and forms adopted by the committee set up by Article 18 of that Convention, with the inclusion of amendments necessitated by the introduction of new criteria, the wording of certain provisions and of the lessons drawn from experience.
- (3) The interaction between the procedures laid down in Regulation (EC) No 343/2003 and the application of Council Regulation (EC) No 2725/2000 of 11 December 2000 concerning the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of the Dublin Convention³ must be taken into account.

¹ OJ L 50, 25.2.2003, p. 1.

² OJ C 254, 19.8.1997, p. 1.

³ OJ L 316, 15.12.2000, p. 1.

- (4) It is desirable, both for the Member States and the asylum seekers concerned, that there should be a mechanism for finding a solution in cases where Member States differ over the application of the humanitarian clause in Article 15 of Regulation (EC) No 343/2003.
- (5) The establishment of an electronic transmission network to facilitate the implementation of Regulation (EC) No 343/2003 means that rules must be laid down relating to the technical standards applicable and the practical arrangements for using the network.
- (6) Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data⁴ applies to processing carried out pursuant to the present Regulation in accordance with Article 21 of Regulation (EC) No 343/2003.
- (7) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark, which is not bound by Regulation (EC) No 343/2003, is not bound by the present Regulation or subject to its application, until such time as an agreement allowing it to participate in Regulation (EC) No 343/2003 is reached.
- (8) In accordance with Article 4 of the Agreement of 19 January 2001 between the European Community and the Republic of Iceland and the Kingdom of Norway concerning the criteria and mechanisms for establishing the State responsible for examining an application for asylum lodged in a Member State or in Iceland or Norway⁵, this Regulation is to be applied by Iceland and Norway as it is applied by the Member States of the European Community. Consequently, for the purposes of this Regulation, "Member States" also include Iceland and Norway.
- (9) It is necessary for the present Regulation to enter into force as quickly as possible to enable Regulation (EC) No 343/2003 to be applied.
- (10) The measures set out in this Regulation are in accordance with the opinion of the Committee set up by Article 27 of Regulation (EC) No 343/2003,

HAS ADOPTED THIS REGULATION:

⁴ OJ L 281, 23.11.1995, p. 31.

⁵ OJ L 93, 3.4.2001, p. 40.

TITLE I

Procedures

CHAPTER I

Preparation of requests

Article 1

Preparation of requests for taking charge

1. Requests for taking charge shall be made on a standard form in accordance with the model in Annex I. The form shall include mandatory fields which must be duly filled in and other fields to be filled in if the information is available. Additional information may be entered in the field set aside for the purpose.

The request shall also include:

- (a) a copy of all the proof and circumstantial evidence showing that the requested Member State is responsible for examining the application for asylum, accompanied, where appropriate, by comments on the circumstances in which it was obtained and the probative value attached to it by the requesting Member State, with reference to the lists of proof and circumstantial evidence referred to in Article 18(3) of Regulation (EC) No 343/2003, which are set out in Annex II to the present Regulation;
 - (b) where necessary, a copy of any written declarations made by or statements taken from the applicant.
2. Where the request is based on a positive result ("hit") transmitted by the Eurodac Central Unit in accordance with Article 4(5) of Regulation (EC) No 2725/2000 after comparison of the asylum seeker's fingerprints with fingerprint data previously taken and sent to the Central Unit in accordance with Article 8 of that Regulation and checked in accordance with Article 4(6) of that Regulation, it shall also include the data supplied by the Central Unit.
3. Where the requesting Member State asks for an urgent reply in accordance with Article 17(2) of Regulation (EC) No 343/2003, the request shall describe the circumstances of the application for asylum and shall state the reasons in law and in fact which warrant an urgent reply.

Article 2

Preparation of requests for taking back

Requests for taking back shall be made on a standard form in accordance with the model in Annex III, setting out the nature of the request, the reasons for it and the provisions of Regulation (EC) No 343/2003 on which it is based.

The request shall also include the positive result ("hit") transmitted by the Eurodac Central Unit, in accordance with Article 4(5) of Regulation (EC) No 2725/2000, after comparison of the applicant's fingerprints with fingerprint data previously taken and sent to the Central Unit in accordance with Article 4(1) and (2) of that Regulation and checked in accordance with Article 4(6) of that Regulation.

For requests relating to applications dating from before Eurodac became operational, a copy of the fingerprints shall be attached to the form.

CHAPTER II

Reaction to requests

Article 3

Processing requests for taking charge

1. The arguments in law and in fact set out in the request shall be examined in the light of the provisions of Regulation (EC) No 343/2003 and the lists of proof and circumstantial evidence which are set out in Annex II to the present Regulation.
2. Whatever the criteria and provisions of Regulation (EC) No 343/2003 that are relied on, the requested Member State shall, within the time allowed by Article 18(1) and (6) of that Regulation, check exhaustively and objectively, on the basis of all information directly or indirectly available to it, whether its responsibility for examining the application for asylum is established. If the checks by the requested Member State reveal that it is responsible under at least one of the criteria of that Regulation, it shall acknowledge its responsibility.

Article 4

Processing of requests for taking back

Where a request for taking back is based on data supplied by the Eurodac Central Unit and checked by the requesting Member State, in accordance with Article 4(6) of Regulation (EC) No 2725/2000, the requested Member State shall acknowledge its responsibility unless the checks carried out reveal that its obligations have ceased under the second subparagraph of Article 4(5) or under Article 16(2), (3) or (4) of Regulation (EC) No 343/2003. The fact that obligations have ceased on the basis of those provisions may be relied on only on the basis of material evidence or substantiated and verifiable statements by the asylum seeker.

Article 5

Negative reply

1. Where, after checks are carried out, the requested Member State considers that the evidence submitted does not establish its responsibility, the negative reply it sends to the requesting Member State shall state full and detailed reasons for its refusal.

2. Where the requesting Member State feels that such a refusal is based on a misappraisal, or where it has additional evidence to put forward, it may ask for its request to be re-examined. This option must be exercised within three weeks following receipt of the negative reply. The requested Member State shall endeavour to reply within two weeks. In any event, this additional procedure shall not extend the time limits laid down in Article 18(1) and (6) and Article 20(1)(b) of Regulation (EC) No 343/2003.

Article 6

Positive reply

Where the Member State accepts responsibility, the reply shall say so, specifying the provision of Regulation (EC) No 343/2003 that is taken as a basis, and shall include practical details regarding the subsequent transfer, such as contact particulars of the department or person to be contacted.

CHAPTER III

Transfers

Article 7

Practical arrangements for transfers

1. Transfers to the Member State responsible may be carried out in one of the following ways:
 - (a) at the request of the asylum seeker, by a certain specified date;
 - (b) by supervised departure, with the asylum seeker being accompanied to the point of embarkation by an official of the requesting Member State, the responsible Member State being notified of the place, date and time of the asylum seeker's arrival within an agreed time-limit;
 - (c) under escort, the asylum seeker being accompanied by an official of the requesting Member State or by a representative of an agency empowered by the requesting Member State to act in that capacity and handed over to the authorities in the responsible Member State.
2. In the cases referred to in paragraph 1(a) and (b), the applicant shall be supplied with the *laissez-passer* referred to in Article 19(3) and Article 20(1)(e) of Regulation (EC) No 343/2003, a model of which is set out in Annex IV to the present Regulation, to allow him to enter the Member State responsible and to identify himself on his arrival at the place and time indicated to him at the time of notification of the decision on taking charge or taking back by the Member State responsible.

In the case referred to in paragraph 1(c), a *laissez-passer* shall be issued if the asylum seeker is not in possession of identity documents.

The time and place of transfer shall be agreed in advance by the Member States concerned in accordance with the procedure set out in Article 8.

3. The Member State making the transfer shall ensure that all the asylum seeker's documents are returned to him before his departure, given into the safe-keeping of members of the escort to be handed to the competent authorities of the Member State responsible, or sent by other appropriate means.

Article 8

Cooperation on transfers

1. It is the obligation of the Member State responsible to allow the asylum seeker's transfer to take place as quickly as possible and to ensure that no obstacles are put in his way. That Member State shall determine, where appropriate, the location on its territory to which the asylum seeker will be transferred or handed over to the competent authorities, taking account of geographical constraints and modes of transport available to the Member State making the transfer. In no case may a requirement be imposed that the escort accompany the asylum seeker beyond the point of arrival of the international means of transport used or that the Member State making the transfer meet the costs of transport beyond that point.
2. The Member State organising the transfer shall arrange the transport for the asylum seeker and his escort and decide, in consultation with Member State responsible, on the time of arrival and, where necessary, on the details of the handover to the competent authorities. The Member State responsible may require that three working days' notice be given.

Article 9

Postponed and delayed transfers

1. The Member State responsible shall be informed without delay of any postponement due either to an appeal or review procedure with suspensive effect, or physical reasons such as ill health of the asylum seeker, non-availability of transport or the fact that the asylum seeker has withdrawn from the transfer procedure.
2. A Member State which, for one of the reasons set out in Article 19(4) and Article 20(2) of Regulation (EC) No 343/2003, cannot carry out the transfer within the normal time limit of six months provided for in Article 19(3) and Article 20(1)(d) of that Regulation, shall inform the Member State responsible before the end of that time limit. Otherwise, the responsibility for processing the application for asylum and the other obligations under Regulation (EC) No 343/2003 falls to the former Member State, in accordance with Article 19(4) and Article 20(2) of that Regulation.
3. When, for one of the reasons set out in Article 19(4) and Article 20(2) of Regulation (EC) No 343/2003, a Member State undertakes to carry out the transfer after the normal time-limit of six months, it shall make the necessary arrangements in advance with the Member State responsible.

Article 10

Transfer following an acceptance by default

1. Where, pursuant to Article 18(7) or Article 20(1)(c) of Regulation (EC) No 343/2003 as appropriate, the requested Member State is deemed to have accepted a request to take charge or to take back, the requesting Member State shall initiate the consultations needed to organise the transfer.
2. If asked to do so by the requesting Member State, the Member State responsible must confirm in writing, without delay, that it acknowledges its responsibility as a result of its failure to reply within the time limit. The Member State responsible shall take the necessary steps to determine the asylum seeker's place of arrival as quickly as possible and, where applicable, agree with the requesting Member State the time of arrival and the practical details of the handover to the competent authorities.

CHAPTER IV

Humanitarian clause

Article 11

Situations of dependency

1. Article 15(2) of Regulation (EC) No 343/2003 shall apply whether the asylum seeker is dependent on the assistance of a relative present in another Member State or a relative present in another Member State is dependent on the assistance of the asylum seeker.
2. The situations of dependency referred to in Article 15(2) of Regulation (EC) No 343/2003 shall be assessed, as far as possible, on the basis of objective criteria such as medical certificates. Where such evidence is not available or cannot be supplied, humanitarian grounds shall be taken as proven only on the basis of convincing information supplied by the persons concerned.
3. The following points shall be taken into account in assessing the necessity and appropriateness of bringing together the persons concerned:
 - (a) the family situation which existed in the country of origin;
 - (b) the circumstances in which the persons concerned were separated;
 - (c) the status of the various asylum procedures or procedures under the legislation on aliens under way in the Member States.
4. The application of Article 15(2) of Regulation (EC) No 343/2003 shall, in any event, be subject to the assurance that the asylum seeker or relative will actually provide the assistance needed.
5. The Member State in which the relatives will be reunited and the date of the transfer shall be agreed by the Member States concerned, taking account of:

- (a) the ability of the dependent person to travel;
- (b) the situation of the persons concerned as regards residence, preference being given to the bringing the asylum seeker together with his relative where the latter already has a valid residence permit and resources in the Member State in which he resides.

Article 12

Unaccompanied minors

1. Where the decision to entrust the care of an unaccompanied minor to a relative other than the mother, father or legal guardian is likely to cause particular difficulties, particularly where the adult concerned resides outside the jurisdiction of the Member State in which the minor has applied for asylum, cooperation between the competent authorities in the Member States, in particular the authorities or courts responsible for the protection of minors, shall be facilitated and the necessary steps taken to ensure that those authorities can decide, with full knowledge of the facts, on the ability of the adult or adults concerned to take charge of the minor in a way which serves his best interests.

Options now available in the field of cooperation on judicial and civil matters shall be taken account of in this connection.

2. The fact that the duration of procedures for placing a minor may lead to a failure to observe the time limits set in Article 18(1) and (6) and Article 19(4) of Regulation (EC) No 343/2003 shall not necessarily be an obstacle to continuing the procedure for determining the Member State responsible or carrying out a transfer.

Article 13

Procedures

1. The initiative of requesting another Member State to take charge of an asylum seeker on the basis of Article 15 of Regulation (EC) No 343/2003 shall be taken either by the Member State where the application for asylum was made and which is carrying out a procedure to determine the Member State responsible, or by the Member State responsible.
2. The request to take charge shall contain all the material in the possession of the requesting Member State to allow the requested Member State to assess the situation.
3. The requested Member State shall carry out the necessary checks to establish, where applicable, humanitarian reasons, particularly of a family or cultural nature, the level of dependency of the person concerned or the ability and commitment of the other person concerned to provide the assistance desired.
4. In all events, the persons concerned must have given their consent.

Article 14

Conciliation

1. Where the Member States cannot resolve a dispute, either on the need to carry out a transfer or to bring relatives together on the basis of Article 15 of Regulation (EC) No 343/2003, or on the Member State in which the persons concerned should be reunited, they may have recourse to the conciliation procedure provided for in paragraph 2 of this Article.
2. The conciliation procedure shall be initiated by a request from one of the Member States in dispute to the Chairman of the Committee set up by Article 27 of Regulation (EC) No 343/2003. By agreeing to use the conciliation procedure, the Member States concerned undertake to take the utmost account of the solution proposed.

The Chairman of the Committee shall appoint three members of the Committee representing three Member States not connected with the matter. They shall receive the arguments of the parties either in writing or orally and, after deliberation, shall propose a solution within one month, where necessary after a vote.

The Chairman of the Committee, or his deputy, shall chair the discussion. He may put forward his point of view but he may not vote.

Whether it is adopted or rejected by the parties, the solution proposed shall be final and irrevocable.

CHAPTER V

Common provisions

Article 15

Transmission of requests

1. Requests, replies and all written correspondence between Member States concerning the application of Regulation (EC) No 343/2003 shall where possible be sent through the "DubliNet" electronic communications network, set up under Title II of the present Regulation.

By way of derogation from the first subparagraph, correspondence between the departments responsible for carrying out transfers and competent departments in the requested Member State regarding the practical arrangements for transfers, time and place of arrival, particularly where the asylum seeker is under escort, may be transmitted by other means.
2. Any request, reply or correspondence emanating from a National Access Point, as referred to in Article 19, shall be deemed to be authentic.
3. The acknowledgement issued by the system shall be taken as proof of transmission and of the date and time of receipt of the request or reply.

Article 16

Language of communication

The language or languages of communication shall be chosen by agreement between the Member States concerned.

Article 17

Consent of the persons concerned

1. For the application of Articles 7 and 8, Article 15(1) and Article 21(3) of Regulation (EC) No 343/2003, which require the persons concerned to express a desire or give consent, their approval must be given in writing.
2. In the case of Article 21(3) of Regulation (EC) No 343/2003, the applicant must know for what information he is giving his approval.

TITLE II

ESTABLISHMENT OF THE "DUBLINET" NETWORK

CHAPTER I

Technical standards

Article 18

Establishment of "DubliNet"

1. The secure electronic means of transmission referred to in Article 22(2) of Regulation (EC) No 343/2003 shall be known as "DubliNet".
2. DubliNet is based on the use of the generic IDA services referred to in Article 4 of Decision No 1720/1999/EC⁶.

Article 19

National Access Points

1. Each Member State shall have a single designated National Access Point.
2. The National Access Points shall be responsible for processing incoming data and transmitting outgoing data.
3. The National Access Points shall be responsible for issuing an acknowledgement of receipt for every incoming transmission.

⁶ OJ L 203, 3.8.1999, p. 9.

4. The forms of which the models are set out in Annexes I and III and the form for the request of information set out in Annex V shall be sent between National Access Points in the format supplied by the Commission. The Commission shall inform the Member States of the technical standards required.

CHAPTER II

Rules for use

Article 20

Reference number

1. Each transmission shall have a reference number making it possible unambiguously to identify the case to which it relates and the Member State making the request. That number must also make it possible to determine whether the transmission relates to a request for taking charge (type 1), a request for taking back (type 2) or a request for information (type 3).
2. The reference number shall begin with the letters used to identify the Member State in Eurodac. This code shall be followed by the number indicating the type of request, according to the classification set out in paragraph 1.

If the request is based on data supplied by Eurodac, the Eurodac reference number shall be included.

Article 21

Continuous operation

1. The Member States shall take the necessary steps to ensure that their National Access Points operate without interruption.
2. If the operation of a National Access Point is interrupted for more than seven working hours the Member State shall notify the competent authorities designated pursuant to Article 22(1) of Regulation (EC) No 343/2003 and the Commission and shall take all the necessary steps to ensure that normal operation is resumed as soon as possible.
3. If a National Access Point has sent data to a National Access Point that has experienced an interruption in its operation, the acknowledgement of transmission generated by the IDA generic services shall be used as proof of the date and time of transmission. The deadlines set by Regulation (EC) No 343/2003 for sending a request or a reply shall not be suspended for the duration of the interruption of the operation of the National Access Point in question.

TITLE III
TRANSITIONAL AND FINAL PROVISIONS

Article 22

Laissez-passer produced for the purposes of the Dublin Convention

Laissez-passer printed for the purposes of the Dublin Convention shall be accepted for the transfer of applicants for asylum under Regulation (EC) No 343/2003 for a period of no more than eighteen months following the entry into force of the present Regulation.

Article 23

Entry into force

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Commission

[...]

Member of the Commission

ANNEX I

**STANDARD FORM FOR DETERMINING THE MEMBER STATE¹ RESPONSIBLE
FOR EXAMINING AN APPLICATION FOR ASYLUM**

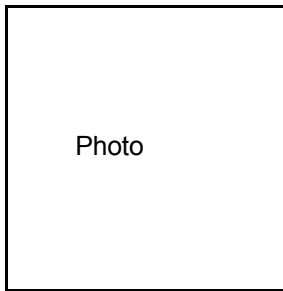
Request for taking charge presented on the basis of the following Article of Council Regulation (EC) No 343/2003:

- Article 6 (unaccompanied minor):
- Article 7 (family member resident in the Member State as a refugee):
- Article 8 (family member applying for asylum in a Member State):
- Article 9(1) or (3) (valid residence document):
- Article 9(2) or (3) (valid visa):
- Article 9(4) (residence document which expired less than two years previously or visa which expired less than six months previously):
- Article 10(1) (illegal entry at external frontier less than 12 months ago):
- Article 10(2) (residence of at least 5 months in the Member State):
- Article 11(1) (visa requirement waived for entry):
- Article 14 (keeping family groups together):
- Article 15 (humanitarian grounds):

Eurodac data: Eurodac no.....

Reply requested urgently: No later than:

Reason for urgency:.....
.....



File number

Personal particulars of applicant

- 1. Surname^(*)
Maiden name
- 2. Forename(s)
- 3. Does the applicant use/has he/she used other names? Yes No
What are/were they?
- 4. Date of birth
- 5. Place of birth
District/region
Country
- 6. Nationality(ies)
(indicate all)
a) current
b) previous
c) none/stateless
- 7. Sex Male Female

¹ NB: Pursuant ^{to} the Agreement of 19 January 2001 between the European Community and the Republic of Iceland and the Kingdom of Norway, the words "Member States" include Iceland and Norway.

^(*) In block capitals.

- 8. Name of father
- 9. Name of mother
- 10. Marital status
 - Single Married Widowed
 - Divorced Cohabitee
- 11. Language(s) of origin

Personal particulars of family members

- 12. Spouse: Surname (*), maiden name, forename(s), sex, date of birth, place of birth, place of residence (if the spouse is seeking asylum a separate form should be completed; in this case include the reference number of the other member of the couple on all forms).

Reference number of spouse (if necessary):.....

- 13. Children : Surname (*), forename(s), sex, date of birth, place of birth, place of residence (indicate all children; a separate form should be completed for children over 16 years of age if asylum is sought)
 - a)
 - b)
 - c)
 - d)
 - e)

- 14. Place and date of the application for asylum in the country of residence:

Previous asylum procedures

- 15. Has the asylum applicant ever previously applied for asylum or recognition of refugee status in the country of residence or in another country?
 - Yes No
- When and where?
- Was any decision taken on the application?
 - No Don't know Yes, application rejected
- When was the decision taken?

Identity papers

- 16. National passport
 - Yes No
 - Number
 - Issued on
 - By
 - Valid until
- 17. Document replacing passport
 - Yes No
 - Number
 - Issued on
 - By
 - Valid until
- 18. Other document
 - Yes No
 - Number
 - Issued on
 - By
 - Valid until
- 19. In the absence of documents: (specify whether they may have contained a valid visa or residence permit and, if so, indicate the
 - Left without documents Documents lost Documents stolen

issuing authority and date of issue as well as the period of validity)

(When? where?)

.....
.....
 Other reasons
(Please specify

Residence documents/visas

20. Does the asylum applicant possess a residence document/visa for the country of residence?

Yes No
 Residence permit Entry visa
 Transit visa

Type of document

Issued on
By
Valid until

.....
.....
.....

21. Does the asylum applicant possess a residence document/visa for another EU Member State?²

Yes No

Which State?

.....

Type of document

Residence permit Entry visa
 Transit visa

Issued on
By
Valid until

.....
.....
.....

Travel route

22. Country in which the journey was begun (country of origin or of provenance)

.....
.....

- Route followed from country where journey was begun to point of entry into country in which asylum is requested

- Dates and times of travel

.....
.....
.....

- Crossed border on

- At the authorised crossing point
or

.....
.....
.....

- Avoided border controls (entered illegally)

- Means of transport used

Public transport (what form?.....)
 Own vehicle
 Other means (how?.....)

23. Did the asylum applicant enter via another European Union Member State?³

Yes No

- Which was the first EU Member State entered?

- Crossed border at authorised crossing point, or

- Avoided border controls at

.....
.....
.....

² Including Iceland and Norway.
³ Including Iceland and Norway.
⁴ Including Iceland and Norway.

- When?

.....
.....
.....

Residence in another EU Member State⁴

24. Residence in another EU Member State or States after leaving country in which journey was begun (country of origin/provenance)

Yes No

.....
.....

- In which State or States?
- From – to
- Place/exact address
 - Residence was
 - Period of validity of residence permit
 - Purpose of residence

Authorised Unauthorised

.....
.....
.....

Particulars of family members living in EU Member States⁵

25. a) Is any family member residing in a Member State?

Yes No

- Name of family member
- Date of birth
- Marital status
- Relationship

.....
.....
.....

Single Married Widowed
 Divorced

spouse father
 mother child
 brother sister
 guardian other (please specify)

.....
.....
.....

- Member State
- Address in that State
- Residence status

recognised refugee resident
 asylum applicant illegal

b) Do any of those concerned object to the examination of the application for asylum in that Member State?

Yes No

Other useful information

.....
.....
.....
.....
.....

□□□□□□□□□□□□□□□□

⁵ Including Iceland and Norway.

ANNEX II

(References are to articles of Council Regulation (EC) No 343/2003)

LIST A

MEANS OF PROOF

- I. Process of determining the State responsible for examining an application for asylum
1. Presence of a family member (father, mother, guardian) of an asylum applicant who is an unaccompanied minor (Article 6)
Probative evidence
 - written confirmation of the information by the other Member State;
 - extracts from registers;
 - residence permits issued to the family member;
 - evidence that the persons are related, if available;
 - failing this, and if necessary, a DNA or blood test.
 2. Legal residence in a Member State of a family member recognised as having refugee status (Article 7)
Probative evidence
 - written confirmation of the information by the other Member State;
 - extracts from registers;
 - residence permits issued to the individual with refugee status;
 - evidence that the persons are related, if available;
 - consent of the persons concerned.
 3. Presence of a family member applying for asylum whose application has not yet been the subject of a first decision regarding the substance in a Member State (Article 8)
Probative evidence
 - written confirmation of the information by the other Member State;
 - extracts from registers;
 - temporary residence authorisations issued to the individual while the asylum application is being examined;

- evidence that the persons are related, if available;
 - failing this, if necessary, a DNA or blood test;
 - consent of the persons concerned.
4. Valid residence documents (Article 9(1) and (3)) or residence documents which expired less than 2 years previously [and date of entry into force] (Article 9(4))

Probative evidence

- residence document;
 - extracts from the register of aliens or similar registers;
 - reports/confirmation of the information by the Member State which issued the residence document.
5. Valid visas (Article 9(2) and(3)) and visas which expired less than 6 months previously [and date of entry into force] (Article 9(4))

Probative evidence

- visa issued (valid or expired, as appropriate);
 - extracts from the register of aliens or similar registers;
 - reports/confirmation of the information by the Member State which issued the visa.
6. Legal entry into the territory at an external frontier (Article 11)

Probative evidence

- entry stamp in a passport;
 - exit stamp from a country bordering on a Member State, bearing in mind the route taken by the asylum-seeker and the date the frontier was crossed;
 - tickets conclusively establishing entry at an external frontier;
 - entry stamp or similar endorsement in passport.
7. Illegal entry at an external frontier (Article 10(1))

Probative evidence

- positive match by Eurodac from a comparison of the fingerprints of the applicant with fingerprints taken pursuant to Article 8 of the "Eurodac" Regulation;
- entry stamp in a forged or falsified passport;

- exit stamp from a country bordering on a Member State, bearing in mind the route taken by the asylum-seeker and the date the frontier was crossed;
- tickets conclusively establishing entry at an external frontier;
- entry stamp or similar endorsement in passport.

8. Residence in a Member State for at least five months (Article 10(2))

Probative evidence

- residence authorisations issued while the application for a residence permit is being examined;
- requests to leave the territory or expulsion order issued on dates at least five months apart or that have not been enforced;
- extracts from the records of hospitals, prisons, detention centres.

9. Departure from the territory of the Member States (Article 16(3))

Probative evidence

- exit stamp;
- extracts from third-country registers (substantiating residence);
- tickets conclusively establishing departure from or entry at an external frontier;
- report/confirmation by the Member State from which the asylum-seeker left the territory of the Member States;
- stamp of third country bordering on a Member State, bearing in mind the route taken by the asylum-seeker and the date the frontier was crossed.

II. Obligation on the Member State responsible for examining the application for asylum to re-admit or take back the asylum-seeker

1. Process of determining the Member State responsible is under way in the Member State where the asylum application was lodged (Article 4(5))

Probative evidence

- positive match by Eurodac from a comparison of the fingerprints of the applicant with fingerprints taken pursuant to Article 4 of the "Eurodac" Regulation;
- form submitted by the asylum-seeker;
- official report drawn up by the authorities;
- fingerprints taken in connection with an asylum application;

- extracts from relevant registers and files;
 - written report by the authorities attesting that an application has been made.
2. Application for asylum is under examination or was lodged previously (Article 16(1)(c)(d) and (e))

Probative evidence

- positive match by Eurodac from a comparison of the fingerprints of the applicant with fingerprints taken pursuant to Article 4 of the "Eurodac" Regulation;
 - form submitted by the asylum-seeker;
 - official report drawn up by the authorities;
 - fingerprints taken in connection with an asylum application;
 - extracts from relevant registers and files;
 - written report by the authorities attesting that an application has been made.
3. Departure from the territory of the Member States (Article 4(5); Article 16(3))

Probative evidence

- exit stamp;
 - extracts from third-country registers (substantiating residence);
 - exit stamp from a third country bordering on a Member State, bearing in mind the route taken by the asylum-seeker and the date on which the frontier was crossed;
 - written proof from the authorities that the alien has actually been expelled.
4. Expulsion from the territory of the Member States (Article 16(4))

Probative evidence

- written proof from the authorities that the alien has actually been expelled;
- exit stamp;
- confirmation of the information regarding expulsion by the third country.

LIST B

CIRCUMSTANTIAL EVIDENCE

- I. Process of determining the State responsible for examining an application for asylum
1. Presence of a family member (father, mother, guardian) of an asylum applicant who is an unaccompanied minor (Article 6)

Indicative evidence¹

- verifiable information from the asylum applicant;
- statements by the family members concerned;
- reports/confirmation of the information by an international organisation, such as UNHCR.

2. Legal residence in a Member State of a family member recognised as having refugee status (Article 7)

Indicative evidence

- verifiable information from the asylum applicant;
- reports/confirmation of the information by an international organisation, such as UNHCR.

3. Presence of a family member applying for asylum whose application has not yet been the subject of a first decision regarding the substance in a Member State (Article 8)

Indicative evidence

- verifiable information from the asylum applicant;
- reports/confirmation of the information by an international organisation, such as UNHCR.

4. Valid residence documents (Article 9(1) and (3)) or residence documents which expired less than 2 years previously [and date of entry into force] (Article 9(4))

Indicative evidence

- detailed and verifiable statements by the asylum applicant;
- reports/confirmation of the information by an international organisation, such as UNHCR;

¹ This indicative evidence must always be followed by an item of probative evidence as defined in list A.

- reports/confirmation of the information by the Member State which did not issue the residence permit;
 - reports/confirmation of the information by family members, travelling companions, etc.;
5. Valid visas (Article 9(2) and (3)) and visas which expired less than 6 months previously [and date of entry into force] (Article 9(4))

Indicative evidence

- detailed and verifiable statements by the asylum applicant;
 - reports/confirmation of the information by an international organisation, such as UNHCR;
 - reports/confirmation of the information by the Member State which did not issue the residence permit;
 - reports/confirmation of the information by family members, travelling companions, etc.;
6. Legal entry into the territory at an external frontier (Article 11)

Indicative evidence

- detailed and verifiable statements by the asylum applicant;
- reports/confirmation of the information by an international organisation, such as UNHCR;
- reports/confirmation of the information by another Member State or third country;
- reports/confirmation of the information by family members, travelling companions, etc.;
- fingerprints, except in cases where the authorities decided to take fingerprints when the alien crossed the external frontier.
In such cases, they constitute probative evidence as defined in list A;
- tickets;
- hotel bills;
- entry cards for public or private institutions in the Member States;
- appointment cards for doctors, dentists, etc.;
- information showing that the asylum applicant has used the services of a travel agency;
- other circumstantial evidence of the same kind.

7. Illegal entry into the territory at an external frontier (Article 10(1))

Indicative evidence

- detailed and verifiable statements by the asylum applicant;
- reports/confirmation of the information by an international organisation, such as UNHCR;
- reports/confirmation of the information by another Member State or third country;
- reports/confirmation of the information by family members, travelling companions, etc.;
- fingerprints, except in cases where the authorities decided to take fingerprints when the alien crossed the external frontier.
In such cases, they constitute probative evidence as defined in list A;
- tickets;
- hotel bills;
- entry cards for public or private institutions in the Member States;
- appointment cards for doctors, dentists, etc.;
- information showing that the asylum applicant has used the services of a courier or a travel agency;
- other circumstantial evidence of the same kind.

8. Residence in a Member State for at least five months (Article 10(2))

Indicative evidence

- detailed and verifiable statements by the asylum applicant;
- reports/confirmation of the information by an international organisation, such as UNHCR;
- reports/confirmation of the information by a non-governmental organisation, such as an organisation providing accommodation for those in need;
- reports/confirmation of the information by family members, travelling companions, etc.;
- fingerprints;
- tickets;
- hotel bills;

- entry cards for public or private institutions in the Member States;
- appointment cards for doctors, dentists, etc.;
- information showing that the asylum applicant has used the services of a courier or a travel agency;
- other circumstantial evidence of the same kind.

9. Departure from the territory of the Member States (Article 16(3))

Indicative evidence

- detailed and verifiable statements by the asylum applicant;
- reports/confirmation of the information by an international organisation, such as UNHCR;
- reports/confirmation of the information by another Member State;
- re Article 3(7) and Article 10(3): exit stamp where the asylum applicant concerned has left the territory of the Member States for a period of at least 3 months;
- reports/confirmation of the information by family members, travelling companions, etc.;
- fingerprints, except in cases where the authorities decided to take fingerprints when the alien crossed the external frontier.
In such cases, they constitute probative evidence as defined in list A;
- tickets;
- hotel bills;
- appointment cards for doctors, dentists, etc. in a third country;
- information showing that the asylum applicant has used the services of a courier or a travel agency;
- other circumstantial evidence of the same kind.

II. Obligation on the Member State responsible for examining the application for asylum to re-admit or take back the asylum-seeker

1. Process of determining the Member State responsible is under way in the Member State where the asylum application was lodged (Article 4(5))

Indicative evidence

- verifiable statements by the asylum applicant;

- reports/confirmation of the information by an international organisation, such as UNHCR;
 - reports/confirmation of the information by family members, travelling companions, etc.;
 - reports/confirmation of the information by another Member State.
2. Application for asylum is under examination or was lodged previously (Article 16(1) (c)(d)(e))

Indicative evidence

- verifiable statements by the asylum applicant;
 - reports/confirmation of the information by an international organisation, such as UNHCR;
 - reports/confirmation of the information by another Member State.
3. Departure from the territory of the Member States (Article 4(5) ; Article 16(3))

Indicative evidence

- detailed and verifiable statements by the asylum applicant;
- reports/confirmation of the information by an international organisation, such as UNHCR;
- reports/confirmation of the information by another Member State;
- exit stamp where the asylum applicant concerned has left the territory of the Member States for a period of at least three months;
- reports/confirmation of the information by family members, travelling companions, etc.;
- fingerprints, except in cases where the authorities decided to take fingerprints when the alien crossed the external frontier.
In such cases, they constitute probative evidence as defined in list A;
- tickets;
- hotel bills;
- appointment cards for doctors, dentists, etc. in a third country;
- information showing that the asylum applicant has used the services of a courier or a travel agency;
- other circumstantial evidence of the same kind.

4. Expulsion from the territory of the Member States (Article 16(4))

Indicative evidence

- verifiable statements by the asylum applicant;
 - reports/confirmation of the information by an international organisation, such as UNHCR;
 - exit stamp where the asylum applicant concerned has left the territory of the Member States for a period of at least three months;
 - reports/confirmation of the information by family members, travelling companions, etc.;
 - fingerprints, except in cases where the authorities decided to take fingerprints when the alien crossed the external frontier.
In such cases, they constitute probative evidence as defined in list A;
 - tickets;
 - hotel bills;
 - appointment cards for doctors, dentists, etc.;
 - information showing that the asylum applicant has used the services of a courier or a travel agency;
 - other circumstantial evidence of the same kind.
-

ANNEX III

STANDARD FORM FOR REQUESTS FOR TAKING BACK

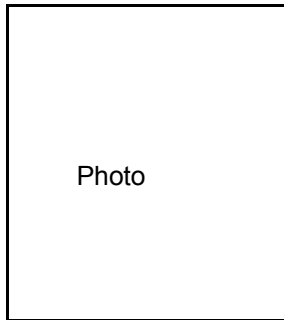
Request for taking back presented on the basis of the following Article of Council Regulation (EC) No 343/2003:

- Article 4(5) (process of determining the Member State responsible is under way in the Member State where the application was lodged):
- Article 16(1)(c) (applicant is in the Member State without permission and his application is being examined in the Member State responsible):
- Article 16(1)(d) (applicant has made an application after withdrawing his application in the Member State responsible):
- Article 16(1)(e) (applicant is in the Member State without permission and his application has been rejected in the Member State responsible):

Eurodac data: Eurodac no.:

Reply requested urgently: No later than:.....
Reason for urgency:

.....
.....



File number

Personal particulars of applicant

- 1. Surname^(*)
Maiden name
- 2. Forename(s)
- 3. Does the applicant use/has he/she used other names? Yes No
What are/were they?
- 4. Date of birth
- 5. Place of birth
- District/region
- Country
- 6. Nationality(ies)
- (indicate all)
a) current
- b) previous
- c) none/stateless
- 7. Sex Male Female
- 8. Name of father
- 9. Name of mother

(*) In block capitals

10. Marital status

- Single Married Widowed
 Divorced Cohabitee

Previous asylum procedures

11. Has the applicant ever previously applied for asylum or recognition of refugee status in the country of residence or in another country?

- Yes No

When and where?
.....
.....

Was any decision taken on the application?

- No Don't know Yes, application rejected

When was the decision taken
.....
.....

12. Does the applicant state that he left the territory of the Member States?

- Yes No

If yes:

Date of departure:
.....

Date of return:.....

Which country(ies) did he go to?
.....
.....

Travel route:
.....
.....
.....
.....

13. Documents submitted by the applicant
Please enclose a list:

.....
.....
.....
.....
.....

Comments:

ANNEX IV

Specimen laissez-passer for transfer of asylum applicants

LAISSEZ-PASSER

Reference No*:

Issued pursuant to Articles 19 and 20 of Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States¹ by a third-country national.

Valid only for transfer from² to³, with the asylum applicant required to present him/herself at⁴ by⁵

Issued at:.....

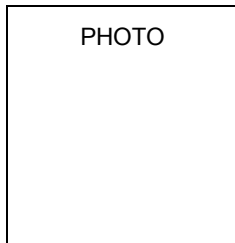
SURNAME :

FORENAMES:.....

PLACE AND DATE OF BIRTH :

NATIONALITY :

Date of issue



For the Ministry for the Interior:.....

SEAL

The bearer of this laissez-passer has been identified by the authorities^{6 7}

This document is issued pursuant to Articles 19 and 20 and of Regulation (EC) No 343/2003 only and cannot under any circumstances be regarded as equivalent to a travel document permitting the external frontier to be crossed or to a document proving the individual's identity.

-
- * Reference number to be given by the country from which the transfer takes place.
 - 1 NB: Pursuant to the Agreement of 19 January 2001 between the European Community and the Republic of Iceland and the Kingdom of Norway, the words "Member States" include Iceland and Norway.
 - 2 Member State from which transferred.
 - 3 Member State to which transferred.
 - 4 Place where the asylum applicant has to present him/herself upon arrival in the Member State responsible.
 - 5 Deadline by which the asylum applicant has to present him/herself upon arrival in the Member State responsible.
 - 6 On the basis of the following travel or identity documents presented to the authorities.
 - 7 On the basis of a statement by the asylum applicant or of documents other than a travel or identity document.

ANNEX V

**REQUEST FOR INFORMATION PURSUANT TO ARTICLE 21 OF COUNCIL
REGULATION (EC) No 343/2003**

Date: __/__/____

Reference No:

Individual concerned:

- Surname:.....

- Forename:.....

- Date of birth:.....

- Place of birth:.....

- Nationality:.....

Indicative evidence enclosed: Yes:

No:

(please specify)

.....

.....

This request for information concerns:

residence document

appeal:

travel document:

decision:

visa:

expulsion:

application for asylum:

other:

Details:.....

.....

.....

.....

.....

.....