

Informal JHA Ministerial Meeting
Tampere, 20-22 September 2006

NEXT STEPS IN THE DEVELOPMENT OF THE COMMON EUROPEAN ASYLUM SYSTEM

The first phase of legislation on refugees and asylum providing for minimum standards has been adopted with the national implementation process now under way. It is however important that the Member States make their commitment to the need to conform to the legislation already adopted at EU level clear, while at the same time further developing the asylum system.

The key objective of a common European asylum system is to develop sustainable solutions to the problems encountered by people who are seeking international protection on the territory of the European Union. Once again, it is important to point out in the spirit of Tampere, that the Geneva Convention relating to the Status of Refugees applies in full, and comprehensively. Therefore, the aim is to ensure access to asylum procedures both at the external borders of the Union and within its territory. An efficient asylum procedure with common standards enables the authorities to curb the abuse of the asylum system and reduce the secondary movement of asylum applicants. At the same time, the common procedure makes it possible to ensure fairness and a high level of legal protection, while also providing equal protection to all applicants within the European Union.

In view of the objectives set out in the Tampere and Hague Programmes, and bearing in mind that the Commission will present a Green Paper on the common European asylum system in 2007 with a related policy plan, it is now advisable to discuss how to further improve this common system.

Evaluating the current situation and taking steps forward

It is necessary to evaluate the national implementation of the legislation adopted and the application of provisions in practice when entering the second phase of the development of the common European asylum system. This evaluation requires not only resources and expertise but also comparable statistics and the courage to point out the problems encountered thus far. A thorough evaluation provides a good basis for continued preparation, irrespective of whether the aim is to improve the application practice or to amend legislation. At the same time, it is worth considering whether there is need to improve the transparency of asylum procedures more commonly and to develop different evaluation methods.

- 1) Do the Ministers consider it important to carry out a reliable and transparent evaluation of the asylum system based on the first phase legislation and further develop evaluation methods?

Practical cooperation among asylum authorities has been cited as a key element in the efforts to create a common European asylum system. Practical cooperation utilising Member States' joint resources and expertise can have a decisive impact on both the efficiency of asylum procedures and on the quality of asylum decisions. Furthermore, this cooperation helps to increase authorities' knowledge and understanding of Member States' national legislative provisions and procedures, while also providing a sound basis for harmonising legislation. At this point in time, it is important to fully

endorse and support the Commission's attempt to construct a common portal providing Member States' authorities with access to different Member States' databases containing information on countries of origin. In the long term, this could lead to the creation of a common database containing information on Member States' case law and legislation. Furthermore, the common use of interpretation services should be promoted, as should the training of personnel tasked with dealing with asylum matters. As such, it is important to draw up a European training programme in this area. When promoting practical cooperation, particular account should be taken of the expertise provided by various international and non-governmental organisations while ways of better utilising this expertise should also be explored. When improving the coordination and structures of practical cooperation, it is important to discuss the role of the Council as the political leader of the operation.

Besides encouraging practical cooperation, we need also to commit ourselves to further developing the minimum standards adopted in the first phase. As already noted in Tampere in 1999, we need to discuss in more detail those provisions in the first phase legislation that exclude totally or in part the status, interests and rights of people benefiting from subsidiary protection under the Qualifications Directive. In the long term, we should discuss the possibility of harmonising residence permits granted by Member States to asylum applicants on grounds other than those related to international protection. The Finnish Presidency wishes to work towards the aim of extending the Directive concerning the status of third-country nationals who are long-term residents to cover refugees and persons benefiting from subsidiary protection.

2) Do the Ministers support a determined effort to promote practical cooperation and develop EU legislation on refugees and asylum in the ways described above? What other forms of practical cooperation or proposals for amending legislation would the Ministers like to bring forward?

Evaluation and further development of the Dublin system

This autumn, the Commission will present an evaluation of the application of the Regulation on criteria and mechanisms for determining the State responsible for examining asylum requests, which will open discussions on the future of the common European asylum system. The Dublin system has also been evaluated by Member States' experts at their meetings and by such organisations as the UNHCR and ECRE in their discussion papers. Some of the problems raised are related to the need to make asylum systems more uniform, others stem from the need to further develop the practical application of the Regulation on determining the responsible State and related Eurodac mechanism. The Finnish Presidency wishes to initiate discussions on these important issues and draw up guidelines on the future development of the system.

We consider that many of the problems related to the Dublin system, pointed out by a number of organisations, can be reduced by promoting the uniform application of the Regulation on determining the responsible State, which will be achieved by complementing and clarifying the current Commission Regulation No 1560/2003 on the application of the above Regulation. This issue was discussed at the Informal Meeting of the Strategic Committee on Immigration, Frontiers and Asylum (SCIFA) at the beginning of September, along with such topics as the development of the DublinNet system and enhancing possibilities for electronic cooperation among Member States' Dublin experts.

The Eurodac system used in the recording of fingerprints is an important instrument when determining the State responsible for examining an asylum application. It is important that Member

States apply the Eurodac Regulation in full and register the fingerprints of both asylum applicants and foreign nationals coming from outside the Union who are apprehended when illegally crossing the border of a Member State and who are not turned back.

It often happens, however, that the system provides a long list of States where the person has previously applied for asylum, which delays the process of determining the State responsible for examining the application concerned. Recording more information in the Eurodac system would facilitate the process of determining the responsible State. Useful information that could be registered, for example includes, the fact that a Member State has previously removed the person concerned from the EU territory, that a State has already taken the application for processing, or that a residence permit has been issued.

3) Do the Ministers share the opinion that a uniform application of the Regulation on determining the responsible State should be improved?

4) Do the Ministers wish to put emphasis on the application of the Eurodac Regulation in full, including, in particular, the fingerprinting of foreign nationals coming from outside the Union who are apprehended when illegally crossing a Member State's border and who are not turned back? Do the Ministers agree that the modalities of how to better record information in the Eurodac system should be further explored?