Dublin Regulation

Position paper of Cyprus, Greece, Italy, Malta and Spain on the Proposal recasting the Dublin Regulation

This paper intends to reflect common views on specific issues of the Dublin Regulation in the context of responsibility and solidarity.

- 1) The efforts deployed by frontline Member States in the control of the common EU external borders subject to significant migratory pressure as well as, where appropriate, in SAR activities, should be recognized in the context of the Dublin Regulation. The above-mentioned efforts should lead to a reduction of the "fair share". Such a reduction should be applied only to the benefit of Member States at the external borders (its entity may be discussed).
- 2) Alleviation of procedural burdens in "challenging circumstances". Where a Member State is under pressure, it should not be obliged to apply mandatory stringent procedures and to respect very short deadlines as it could be the case in normal circumstances. On the contrary, in "normal circumstances" it might be easier to accept additional and more stringent procedural burdens. Therefore:
 - a) Mandatory pre-Dublin checks. The pre-Dublin checks should be optional both in normal and challenging circumstances. They could be foreseen as mandatory (both in normal and challenging circumstances) exclusively with regard to security checks related to national security or public order. Member States should have the possibility to decide whether to apply the pre-Dublin checks to applicants from safe countries of origin or safe third countries. The pre-Dublin checks should not automatically entail the responsibility vis-à-vis applicants coming from a safe country of origin, a safe third country or a first country of asylum. Those applicants should be eligible, as a rule, for allocation. Consequently, related accelerated procedures should be optional.
 - b) **Temporary suspension of take back requests**. Where a Member State is in challenging circumstances in parallel with other support measures, it would be beneficial to temporarily suspend take back requests, unless the requesting Member State is itself under challenging circumstances.

- 3) Reduction of duration of stable responsibility to a maximum of 2 years (instead of 10 years as currently foreseen in the Presidency proposal)¹. Any further application after the cessation of responsibility should be considered as a new application for the purposes of the Dublin Regulation, thus leading to a new procedure for the determination of the responsible Member State.
- 4) The criteria on minors, dependents and family members should be strengthened in the future Dublin rules. Before submitting a take charge or take back request, the requesting Member State should ensure that there are no family members of the applicant in its territory. The same rule should also apply in case of allocation.
- 5) The definition of family members should be extended to siblings. Such an extension would facilitate family reunification and consequently reduce uncontrolled secondary movements.
- 6) **Extension of the discretionary clause**. In Article 19 the possibility should be foreseen for a Member State to directly return the applicant present on its territory to the safe country of origin or to a safe third country instead of submitting a take-back request to the Member State responsible.
- 7) Solidarity measures should have an immediate positive impact. Some of the measures foreseen in the Presidency's proposal (resettlement and financial contribution of 30,000 Euros instead of allocation) would not be useful to alleviate immediately the burden on the first entry Member State.
- 8) The principle of cessation/shift of responsibility in case of failure to comply with the <u>deadlines</u> established for the "Dublin" transfers (take back) should be reintroduced. The length of such deadlines may be discussed.
- 9) Member States should be able to reply to both take charge and take back requests. Procedure for take back should not be limited to a simple notification.
- 10) Beneficiaries of international protection should remain outside the scope of the Dublin Regulation. They should be sent back to the responsible

_

¹ This means to delete the reference to Eurodac.

Member State which granted international protection in accordance with the Return Directive, as is currently the case.

- 11) The allocation mechanism should alleviate the burden of the Member States under pressure and for this purpose the allocation pool should not be too limited.
- 12) In case of challenging circumstances, measures other than allocation should not duplicate mechanisms provided for in the future Regulation of the European Union Asylum Agency.
- 13) The different legislative proposals of the CEAS are closely interlinked and must be negotiated and adopted as a package.