



Malta-EU Steering & Action Committee

## JUSTICE & HOME AFFAIRS (Supplement) MIGRATION



29.05.2009

### JUSTICE & HOME AFFAIRS COUNCIL

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### First asylum package

The Justice and Home Affairs Council will examine a set of proposals amending some of the existing legislative instruments on asylum, in order to achieve a higher degree of harmonisation and strengthen the protection of asylum seekers, as well as providing support for practical cooperation between member states, in the framework of the implementation of the Common European Asylum System (CEAS).

The package consists of the following proposals:

- a) Proposal for a Regulation establishing the criteria and mechanisms for determining the member states responsible for examining an asylum application lodged in one of the member states by a third-country national or a stateless person ("Dublin regulation")<sup>1</sup>;
- b) Proposal for a Regulation concerning the establishment of "Eurodac" for the comparison of fingerprints for the effective application of the Regulation establishing the criteria and mechanisms for determining the member states responsible for examining an asylum application lodged in one of the member states by a third country national or a stateless person;<sup>2</sup>

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<sup>1</sup> [COM \(2008\) 820](#) - Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (Recast)

<sup>2</sup> [COM \(2008\) 825](#) - Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL concerning the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of Regulation (EC) \_o [.../...] [establishing the criteria and mechanisms for determining the Member State responsible for examining an



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- c) Proposal for a Directive amending Council Directive 2003/9/EC laying down minimum standards for the reception of asylum seekers;<sup>3</sup>
- d) Proposal establishing a European Asylum Support Office;<sup>4</sup>
- e) Proposal for a Decision amending Decision 573/2007/EC establishing the European Refugee Fund for the period 2008-2013.<sup>5</sup>

### Background

A common policy on asylum is an essential element of the European Union's objective of progressively establishing an area of freedom, security and justice open to those who, forced by circumstances, legitimately seek protection in the EU. The evaluation of the first-phase legal instruments on asylum, as required in The Hague Programme adopted at the European Council of 4 and 5 November 2004, and which aims to improve the effectiveness of the Dublin system (comprising the Dublin Regulation (2003), EURODAC Regulation and their implementing rules (2003)), is concluded. The proposed legislative package is a part of the second-phase instruments and measures submitted to the Council and the European Parliament with a view to their adoption before the end of 2010.

#### Further information

- [Policy plan on Asylum](#)
- [European Pact on Immigration and Asylum](#)

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application for international protection lodged in one of the Member States by a third-country national or a stateless person] (Recast version).

<sup>3</sup> [COM \(2008\) 815](#) - Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL laying down minimum standards for the reception of asylum seekers (Recast)

<sup>4</sup> [COM \(2009\) 66](#) - Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing a European Asylum Support Office.

<sup>5</sup> [COM \(2009\) 67](#) - DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Decision no 573/2007/EC establishing the European Refugee Fund for the period 2008 to 2013 by removing funding for certain Community actions and altering the limit for funding such actions.



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## **New measures against employers of illegal foreign workers in the EU**

The Council<sup>6</sup> adopted a [Directive](#) aimed at fighting illegal immigration by prohibiting the employment of illegally staying third-country nationals, laying down minimum common standards on sanctions and measures to be applied in the EU member states against employers who infringe that prohibition.

The new rules seek to put an end to abuses by unscrupulous employers who make contracts with illegally-staying migrants, providing them in the labour market with low salaries and poor labour conditions.

Under the directive, employers in the EU will have the obligation to:

- (a) require that a third-country national holds a valid residence permit or other authorisation for his or her stay, before taking up the employment;
- (b) keep a copy or record of the residence permit or authorisation for stay available for inspection by the competent authorities of the member states, for at least the duration of the employment;
- (c) notify the competent authorities designated by member states of the start of employment of third-country nationals within a period laid down by each member state.

Penalties for infringements of the prohibition will include financial sanctions, which will increase in amount according to the number of illegally employed foreigners; and payments of the costs of return in those cases where return procedures are carried out.

Other sanctions may also be applicable to employers of illegal workers, such as exclusion from entitlement to public funding or from participation in public tenders.

The directive represents a step forward towards the fulfilment of the European Council commitment of having a set of clear, transparent and fair rules with the objective of strengthening cooperation between the EU member states against illegal employment and with respect to the human rights and fundamental freedoms of the affected persons.

The new legislation, which is in line with the principles of the European convention for the protection of human rights and fundamental freedoms and the EU charter of fundamental rights, will strengthen the legal security of all interested actors.

The directive also constitutes a response to the concerns for guaranteeing that immigrants can live with dignity in the EU and dispose of the same rights as those of the nationals of the recipient countries.

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<sup>6</sup> The decision was taken, without discussion, at the Agriculture and Fisheries Council meeting. It follows an agreement at first reading under the Parliament-Council co-decision procedure.



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By favouring dialogue and cooperation with countries of origin, the EU acknowledges that migration generates wealth, both for third countries and for Europe, and contributes in a positive way to strengthening cultural diversity. For this reason, the EU promotes collaboration with countries of origin and countries of destination in order to match the migratory flux to the reception capacity of the countries of destination.

### **Council adopts the "EU Blue Card": more advantages for high-skilled foreign workers**

The Council also adopted a [Directive](#) aimed at facilitating conditions of entry and residence in the EU of third-country citizens for the purpose of highly qualified employment.

The Directive establishes more attractive conditions for third-country workers to take up highly qualified employment in the member states of the Union, by creating a fast-track procedure for issuing a special residence and work permit called the "EU Blue Card".

The Blue Card will facilitate access to the labour market to their holders and will entitle them to a series of socio-economic rights and favourable conditions for family reunification and movement across the EU.

The Directive determines the common criteria to be set by the EU Member States for applicants of the Blue Card without prejudice to more advantageous conditions provided for by national laws.

The period of validity of the EU Blue Card will be comprised between one and four years, with possibility of renewal. A Blue Card may also be issued or renewed for smaller periods in order to cover the work contract period plus three months.

After eighteen months of legal residence in the first Member State as an EU Blue Card holder, the person concerned and his family members may move, under certain conditions, to a Member State other than the first one for the purpose of highly qualified employment.

Under the rules set by the Directive, EU Blue Card holders will enjoy equal treatment with nationals of the Member State issuing the Blue Card, as regards:

- working conditions, including pay and dismissal;
- freedom of association;
- education, training and recognition of qualifications;
- a number of provisions in national law regarding social security and pensions;



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- access to goods and services, including procedures for obtaining housing, information and counselling services; and
- free access to the entire territory of the member state concerned within the limits provided for by national law.

Following its publication in the Official Journal of the EU, the Member States will have two years to incorporate the new provisions into their domestic legislation.