

Reforms of the Dublin regulation

- Cecilia Wikström (Rapporteur)

The Dublin regulation determines which EU member state should be responsible for examining an application for International protection. The refugee crisis of 2015 showed clearly that the Dublin regulation needs fundamental reforms in order to enable a structured and dignified reception of asylum seekers in Europe, whilst at the same time allowing member states to effectively manage their borders. Since the flaws of the current Dublin regulation are of a fundamental and structural nature only a fundamental reform can properly address these issues.

A bold but pragmatic proposal from the European Parliament

The European Parliament is proposing a system that will work in practice and on the ground. In order to achieve this we need to ensure that both member states and applicants are incentivised to follow the rules within the Dublin system. Member states, which are all signatories to the Geneva Convention, will need to accept a fair sharing of the responsibility to receive asylum seekers in Europe. Applicants will need to accept that they do not have a free choice as regards the member state that will conduct the evaluation of their asylum claims.

The system proposed by the European Parliament would function in times of normal migratory flows as well as in times of crisis. It would also be able to cope with a crisis on any of the common borders of the union. The Council is clearly allowed to decide on this regulation by majority voting and their focus must now be on finding a system that will work on the ground, and not only one that can reach unanimity in the Council. The European Parliament is ready to start the negotiations between the institutions.

Main elements of the proposal

A permanent and automatic relocation mechanism, without thresholds

Applicants who have family members or who have links with a particular member state for example after having had a prior residence or having studied there shall be relocated to these member states. Applicants that lack such links with a particular member state shall be relocated through the corrective allocation system. The relocation system thus replaces the previous “fall-back-criteria” of the member state of first entry. The system applies at all times, not only in times of crisis and with no thresholds as suggested by the European Commission.

Appropriate procedures in the first Member States of arrival

The current Dublin regulation places an unreasonable burden on the first member states of arrival. The procedures need to be fast and ensure that applicants that need to be relocated to other member states are moved quickly. A light procedure for family reunification and other genuine links is therefore introduced.

The calculation of the fair responsibility

The fair share of each member state in the relocation system is calculated based on the GDP and population. Applicants will be transferred through the corrective allocation system to those member states that have received the fewest applicants in relation to their fair share.

Giving Member States a chance to succeed with the new Asylum System

The European Parliament has included a three-year transition period during which member states which have historically received many asylum-seekers will continue to shoulder a greater responsibility and where member states with a more limited experience of welcoming asylum seekers would start with a lower share of the responsibility. During these three years the member states will then automatically see their shares move towards the fair share. Through support and monitoring from the EU Agency of Asylum we will ensure that all member states have the capacity to succeed in implementing effectively the fair common European asylum system.

Tackling secondary movements

It is important to ensure that applicants remain in the member state that is responsible for assessing their application for international protection. In order to reach this goal all loopholes that allowed for a shift of responsibility between member states have been removed. The Dublin regulation will enable a swift determination of a responsible member state and it will then effectively become impossible for the applicant to alter that. The only path to international protection within Europe will be remain in the responsible member state. Through improved family reunification procedures and a possibility for applicants to be relocated in groups (without a choice of destination) we also reduce incentives on the side of applicants.

A filter in order not to relocate applicants with very small chances of receiving international protection

It is not in the interest of a well-functioning asylum system to relocate applicants with next to no chances of receiving international protection, at the same time a system that would place too heavy burdens on frontline member states would not work in practice. A carefully calibrated “filter” for applicants that have very low chances of receiving international protection is therefore included in the proposal. These applicants would not be relocated but their applications would be treated in the member state of first entry which would receive additional EU-support for these applications. It thus respects the right to a fair asylum procedure for the applicant as well as the interests of having an effective asylum system, without undue burdens on frontline member states or unnecessary relocations.

Incentivise applicants to remain within the official system

Through a radically improved provision of information, legal aid and support for the applicants for international protection, combined with more effective procedures, applicants will be incentivised to cooperate with the authorities.

Ensuring full participation of all Member States

The European Parliament assumes that all EU member states respect democratic decision making, also in cases where they are not in favour of the outcome. In order to ensure that member states are incentivised to follow the rules coercive measures directed at member states which would not follow the rules have been included. Frontline member states that refuse to register applicants would see the relocation of applicants from their territory stop. Member states refusing to accept relocation of applicants to their territory would face limits on their access to EU-funds and would not be able to use EU-funds for returns of applicants that had their asylum claims rejected.