



**COUNCIL OF
THE EUROPEAN UNION**

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ADDENDUM TO THE "I/A" ITEM NOTE

from : General Secretariat of the Council
to : COREPER /COUNCIL

Subject : 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)
[first reading]
- Adoption
(a) of the Council's position
(b) of the statement of the Council's reasons
- Statements

COMMON GUIDELINES

Consultation deadline for Croatia: 5 June 2013

Statements by the Commission

1. In the application of the present Regulation, the Commission reiterates that, when proposing uniform conditions for implementing the provisions on transfers as foreseen under the present Regulation, it will ensure that current standards on transfers, as laid down in Articles 7-10 of Commission Regulation 1560/2003 of 2 September 2003 laying down detailed rules for the application of Council Regulation (EC) No 343/2003, will be upheld.

2. The Commission underlines that it is contrary to the letter and to the spirit of Regulation 182/2011 (OJ L 55 of 28.2.2011, p. 13) to invoke Article 5 § 4, subparagraph 2, point b) in a systematic manner. Recourse to this provision must respond to a specific need to depart from the rule of principle which is that the Commission may adopt a draft implementing act when no opinion is delivered. Given that it is an exception to the general rule established by Article 5 § 4 recourse to subparagraph 2, point b) cannot be simply seen as a "discretionary power" of the Legislator, but must be interpreted in a restrictive manner and thus must be justified.

3. The Commission considers that the provision of Article 28(3), fourth sub-paragraph should be interpreted in the sense that the time limits foreseen in Articles 21, 23, 24 and 29 are calculated taking into account the period already lapsed with the detention procedure. In these cases, the period of one month for submitting a take charge or take back request and the period of six weeks for carrying out the transfer to the responsible Member State shall be deducted from the periods referred to in Articles 21, 23 and 29.

Statement by Slovenia

Slovenia agrees with the view of the Dublin Regulation as being one of the core elements of the Common European Asylum System, thus contributing to the efficient functioning of the EU asylum policy.

Past experience has shown the need to improve the functioning of the Dublin System, but it has also taught us that this should be done with prudence and with due attention to the horizontal nature of the Regulation. It is Slovenia's opinion that this was not duly taken into account in the process of negotiations, which is why Slovenia wishes to express serious concerns over the recast of the Dublin Regulation.

Several amended provisions could present significant administrative and financial burden and prolong the procedure. This could endanger the proper functioning of the system as a whole and as a consequence seriously exacerbate the situation of persons subjected to it.

Slovenia regrets the new arrangements regarding additional personal interview in the Dublin procedure. In our opinion the institute of this interview is sufficiently regulated in Asylum Procedures Directive which also provides for the use in this Regulation. Such duplication could present a significant administrative burden to relevant authorities of Member States.

Slovenia also regrets the shortening of the deadlines for detention in Article 28 and the provision that a person must not be restricted only because they are being subject to Dublin procedure. It is the opinion of Slovenia that this could seriously affect the ability of the Member States to efficiently carry out Dublin transfers and could have negative effect throughout the EU as a result of absconding of the applicants, which cannot be effectively prevented.

Slovenia expresses concerns over the adopted arrangements for Unaccompanied Minors and dependent persons in the procedure. Despite being fully aware of special needs and vulnerable situation of these persons, we fear that the obligation to establish and consequently bring together the persons concerned with family members and relations to such an extended scope will prove to be very difficult in practice, and will present a significant administrative burden especially to relevant authorities of smaller Member States as well as prolong the situation of uncertainty for the asylum seekers concerned.

Finally, Slovenia would like to emphasize once again its hesitation towards the placement of the Early Warning System in the framework of this Regulation since it is not primarily connected to the Dublin procedure.

Statement by Greece

1. The completion of the Common European Asylum System (CEAS) will allow for further development of initiatives, focusing on sincere and genuine solidarity towards Member States, especially those at the EU external borders. The Treaty for the Functioning of the European Union (TFEU) institutionally establishes, for the first time, the notion of “solidarity” as well as the fair sharing of responsibilities between Member States (art. 80)¹ in the areas of Migration and Asylum.

2. Asylum issues are of particular importance and priority to Greece, as one of the Member States facing strong pressures at its external borders due to mixed flows of illegal migrants. In this context Greece is implementing a comprehensive reform of its Asylum and Migration Management systems, thus supporting in an effective and constant manner the CEAS development.

3. Greece believes that the “Dublin Regulation” recast has proved to be less ambitious than it should have been since, among others, it does not offer substantial answers to the concerns and pressing issues that Member States at EU’s external borders face. This is due to three majors reasons:
 - The first entry criterion provision was never examined at the discussions of the “Dublin Regulation” recast.

 - A provision for the suspension of transfers was not included in the final text.

 - The new art. 31 limits itself to the Asylum System and does not contain any reference to pressures which are due to mixed migratory flows.

¹ *Art. 80: “The policies of the Union set out in this Chapter and their implementation shall be governed by the principle of solidarity and fair sharing of responsibility, including its financial implications, between the Member States. Whenever necessary, the Union acts adopted pursuant to this Chapter shall contain appropriate measures to give effect to this principle.*

4. For the above reasons, Greece cannot offer its support to the adoption, as presented in the “A” items.
