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**NOTE**

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from: General Secretariat of the Council  
to: Delegations

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Subject: European Parliament plenary session in Strasbourg on 11 June 2013:  
Joint debate on Asylum

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Mr Masip Hidalgo (S&D, ES), Rapporteur for the Receptions Conditions Directive, said he was looking forward to the adoption of the Asylum package and that Europe should be seen primarily as a land of shelter for the persecuted, adding that those seeking shelter should be treated with dignity. He stressed that this new directive would certainly improve the situation of asylum seekers in the EU.

The Rapporteur for the 'Dublin II' Regulation, Ms Wikström (ALDE, SV) said the new regulation would provide new set of common rules for receiving asylum seekers in more humane conditions. It provided for an early warning system and assigned a key role to the European Asylum Support Office (EASO) and the Commission.

The Rapporteur for the 'EURODAC' Regulation, Ms Macovei (EPP, RO) expressed satisfaction with the agreement reached and outlined the main features and purpose of the improved EURODAC database.

The Rapporteur for the Asylum Procedures Directives, Ms Guillaume (S&D, FR) said that reception conditions in the Member States varied considerably and that asylum seekers faced a lottery. After many years of discussions, the EP and the Council had finally managed to agree on a compromise which achieved a balance between quality procedures and the protection of rights, on the one hand, and the need to bring efficiency and added value to the existing patchwork of asylum procedures on the other.

Ms Creighton, Minister of State for European Affairs, delivered the speech set out in [Annex I](#), on behalf of the Council.

Commissioner Malmström delivered the speech set out in [Annex II](#).

The following comments were made on behalf of the political groups:

- speaking on behalf of the EPP group, Mr Papanikolau said the current Asylum package was encouraging and had many positive aspects. However, he pointed out that the burden would fall disproportionately on some Member States, including Malta, Italy and Greece. He criticised the lack of solidarity between Member States and stressed that a fairer distribution system should be put in place;
- speaking on behalf of the S&D group, Mr López Aguilar (S&D) said the new asylum legislation was a clear step forward and marked the conversion of the Area of Freedom, Security and Justice into an EU policy area which would now be subject to the ordinary legislative procedure. He said that the future EU asylum system would be respectful of human dignity, adding that it was important to send a strong message that Europe, far from being a fortress, is a place of understanding and acceptance;
- speaking on behalf of the ALDE group, Ms Weber welcomed the establishment of an EU asylum system as well as an EU migration system. She said this was part and parcel of the EU's role as a major international player. Although the compromises achieved were not perfect, the new systems would greatly improve the existing situation. She said asylum seekers were not the enemy and that Europe should not forget its own history;

- speaking on behalf of the ECR, Mr Kirkhope rejected the proposed EU asylum system, saying it failed to address the root cause of the problem. He called for a more varied approach, better adapted to the challenges faced by individual Member States, based on the Geneva Convention principles and on practical assistance. He nevertheless welcomed the EURODAC and Dublin regulations which he said not only enhanced the protection of asylum seeker' rights but also addressed the issue of system abuses. He stressed that the implementation of this legislation would be of crucial importance. He said it was necessary to support the Member States which, for geographical reasons, would face a substantial share of the burden. This would help them improve their capacity to accept asylum seekers in accordance with their obligations under international law and to ensure the protection of human dignity;
- speaking on behalf of the Greens/EFA, Ms Lambert said that it was clear during the negotiations on the EU Asylum package that a number of Member States were dragging their heels. She referred to the plight of Syrian refugees, mainly hosted outside the EU, whose asylum claims were being rejected in the EU. She stated that little progress had been made and that her group wanted to see higher standards of protection of human rights and greater consistency among Member States;
- speaking on behalf of the GUE/NGL, Mr Triantaphyllides said the proposed system involved only partial harmonisation and was based on the misguided Dublin principles, according to which the country of entry was responsible for processing the application. This approach clearly lacked solidarity. Moreover, national law enforcement authorities would have access to the database on asylum seekers. His group would not support the proposed legislation;
- Mr Claeys (NI) said that Member States should have the sovereign right to decide who should or should not enter its territory.

In the subsequent debate, MEPs expressed views along the same lines as the contributions of the various political groups.

Commissioner Malmström thanked the MEPs for the lively debate. She welcomed the support of the majority for the proposed legislation, which showed that the Council, the European Parliament and the Commission could reach agreement on important matters. To be able to agree on an EU asylum system, in line with European values, even in a difficult economic situation, sent out an important signal to EU citizens and further afield.

Minister Creighton concluded the debate, on behalf of the Council, by recalling the longstanding EU tradition of protecting those fleeing from persecution. The right to asylum was guaranteed in the Charter of Fundamental Rights and there was a clear commitment to the Geneva Convention and to other relevant international instruments. She stressed that the task of implementation would be challenging and would have to be based on a strong foundation of mutual trust.

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**Speech by Ms Creighton, Minister of State for European Affairs :**

Mr President, I am very pleased to be here today, representing the Irish Presidency of the Council, to mark this important stage in the completion of the second phase of the Common European Asylum System.

This project, as many of you will know, has been an important goal of the Irish Presidency of the Council, and I am very pleased that we have been able to play our role in reaching some of the final compromises necessary for agreement on the Procedures Directive and the Eurodac Regulation.

I wish to acknowledge particularly the role played by previous Council Presidencies, most recently and notably the Presidencies of Cyprus, Denmark and Poland, in the legislative process, which is now in its final stage.

Indeed, since the first half of 2009 the legislative package on asylum has absorbed the energies of no fewer than nine Council Presidencies, all of whom have worked with the co-legislator and the European Commission to forge the agreements, the final elements of which are now being put in place.

We are in the final stage of concluding a project initiated in June 2008 with the publication by the European Commission of its policy plan on asylum in which it announced its intention to build on the existing legal framework in the field of asylum.

The initiative of the Commission was quickly taken up by the European Council, adopting in October 2008 the European Pact on Immigration and Asylum in which the European Council stated that the time had come to take new initiatives to complete the establishment of the common European asylum system and thus to offer a higher degree of protection.

The entry into force of the Lisbon Treaty in December 2009 modified the legal framework for asylum policy and provided for a uniform status of asylum, a uniform status of subsidiary protection and common procedures for granting and withdrawing the two forms of international protection.

It is to be welcomed that the legislative instruments for the second phase of the common European asylum system have been based on the new Treaty provisions, thus ensuring compliance with the principle of non-refoulement and the 1951 Geneva Convention on the Status of Refugees and its 1967 Protocol.

In adopting the Stockholm Programme in December 2009, the European Council renewed its commitment to the establishment of a common asylum procedure and a uniform status for those granted international protection. The European Council also stated that, while the common European asylum system should be based on high protection standards, due regard should also be given to a fair and effective procedure capable of preventing abuse. It is fair to say that the overall compromises developed during the legislative process have been informed by the strategic guidelines laid down by the European Council in the Stockholm Programme.

In this regard I would like to acknowledge the creative contributions of all those in the Council, the European Parliament and the Commission, which have allowed the negotiations to be brought to this successful conclusion.

These new instruments provide for a number of important improvements: the new legislative framework further harmonises national asylum systems, the common standards are more protective and fully in line with the evolving case law of the Court of Justice and the European Court of Human Rights, and the new rules will enable Member States to operate efficient asylum systems capable of tackling abuse.

This second phase of the common European asylum system has seen the establishment of the European Asylum Support Office. The office, in Malta, which is now fully operational, is an important element in the development and implementation of the common European asylum system and is contributing to the strengthening of all forms of practical cooperation between the Member States.

The Dublin System remains a cornerstone in building the common European asylum system, as it clearly allocates responsibility for the examination of asylum applications. It is fair to say that the importance of the Dublin System was reflected in the intensive and creative negotiations which have taken place since the legislative proposal of the Commission was presented in December 2008.

One of the innovative elements arising from the negotiations was the inclusion in the Dublin Regulation of a mechanism for early warning, preparedness and crisis management. The mechanism allows for an active and early response to situations where the asylum system of a Member State is subject to particular pressure or has problems in its functioning. It provides for structured and escalating actions in order to address any deficiencies and problems before the situation becomes a fully-fledged crisis.

This provision is an important element in laying strong foundations for the mutual trust built upon Member States' individual responsibility for adhering to their EU and international obligations in law and in practice. Responsibility and mutual trust are the pillars on which the common framework on genuine and practical solidarity in the field of asylum should be built. In this regard, it is important to note that solidarity and responsibility go hand-in-hand.

Each Member State should ensure that it has in place a well-functioning and robust asylum system to enable it to cope with migratory fluctuations and to allow it to receive solidarity measures. An essential element to a credible and sustainable common European asylum system is that Member States build and maintain sufficient capacity in the national asylum systems.

Following the guidance of the European Council, the Member States are urged to support each other in building this capacity. The European Asylum Support Office has an important role in coordinating this endeavour.

I would like, in concluding, to express my particular thanks to your rapporteurs, who have worked so hard to make these agreements possible and who have already spoken so eloquently: Sylvie Guillaume for the Asylum Procedures Directive; Monica Macovei for the Eurodac Regulation; Cecilia Wikström for the 'Dublin' Regulation and Antonio Masip Hidalgo for the Reception Conditions Directive.

We should, of course, not forget the contribution made by Jean Lambert who, as the Rapporteur for the Qualification Directive, contributed to our reaching an agreement in 2011, and give more general thanks to Commissioner Cecilia Malmström for her assistance in helping and guiding the brokering of some of the vital compromises which have made these agreements possible.

In conclusion, as President of the Council, I very much look forward to following the debate, which represents such an important milestone in the establishment of the common European asylum system.

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**Speech by Commissioner Malmström :**

Mr President, the second phase of the Common European Asylum System has been several years in the making. I am very happy to be here with you today to speak the day before it is hopefully adopted by a large majority in this plenary.

Fifteen years ago, the EU had no common rules on asylum. Basic minimum standards have since been adopted, and today we are to make a decisive step towards a true common system. This is, in many ways, a historic achievement.

These negotiations, as you all know, have been tough. They have been long and very difficult, but thanks to the great work done by you, the rapporteurs, I am delighted to say that we achieved the results which will make a difference. It shows how much difference the European Parliament can make. I would like to thank all of you present: Antonio Masip Higaldo, Cecilia Wikström, Sylvie Guillaume, Monica Macovei, Jean Lambert, and all the shadow rapporteurs and all the others involved, especially in the Committee on Civil Liberties, Justice and Home Affairs, for your hard work, your support and your dedication on this. I would also, of course, like to thank the Irish Presidency. There were many presidencies before you, but it was the Irish Presidency which managed to conclude on the final, very difficult, but very important, issues.

Let me mention some of the improvements that the new asylum package will make. Thanks to the new Asylum Procedures Directive, asylum procedures will be quicker, more efficient and fairer to asylum seekers. All asylum seekers will receive early assistance in the procedure to minimise errors and reduce hardship due to long procedures. There will be a general deadline of six months for normal asylum procedures. Asylum seekers will no longer have to wait years for a decision. This will, of course, reduce human suffering, and also save money because people will not depend on financial and social assistance.

The new rules in the Asylum Procedures and Reception Conditions Directives mean that asylum seekers with special needs will be quickly identified. They will receive the necessary support to explain their claim, and adequate reception conditions. There will be greater protection for unaccompanied minors and victims of torture.

In the new Reception Conditions Directive there are rules ensuring that detention of asylum seekers will be applied only as an exception, on six limited grounds. This is a huge improvement compared to the current rules. All the necessary guarantees need to be available, including free legal assistance. The conditions in detention centres need to be adequate, especially for vulnerable people.

In addition, the new Reception Conditions Directive will provide for quicker access for asylum seekers to the labour market. That way, if exceptionally they have to wait for more than nine months for a decision, they will be able to support themselves instead of relying on state help. This will also, in the case of a positive decision, speed up the integration process.

The new Dublin Regulation will give asylum seekers more rights and protection in the procedure for determining the responsible Member States. This procedure will also be more efficient and clearer, avoiding conflicts of competence between Member States.

In parallel to the Commission's infringement powers, there will be a mechanism to detect early problems in national asylum or reception systems, and to address the root causes before these problems develop. It will be equipped with solidarity measures for those whose problems stem from a particular pressure. This is an achievement of the new Dublin Regulation.

I also want to mention the Court judgement from last week, to which Mrs Wikström made reference. The Commission and I attach great importance to that. The ruling confirmed that our views on the interpretation of the current Dublin Regulation were correct. The Court confirmed that the unnecessary transfer of children between Member States should be avoided. With a view to ensuring the child's best interests, the application must be examined in the state where the child is present.

The Commission is ready to live up to its commitment under the joint declaration in which we undertook to allow a quick adoption for the recast regulation and we will consider revising Article 8(4). If we make a proposal, the European Parliament and the Council will thereafter be called upon to exercise their legislative competences on the matter. In any case, the ruling of the Court of Justice is to be taken into account by all Member States in the implementation of the asylum rules, as it has already become part of the EU acquis.

The Qualification Directive has already been adopted, but we should mention it again. It clarifies the grounds for granting international protection and therefore will make asylum decisions more robust. It will also improve access to rights and integration measures for beneficiaries of international protection.

Finally, in the package we have the revised Eurodac Regulation. This will allow law enforcement access to the EU database of the fingerprints of asylum seekers, under strictly limited circumstances, in order to prevent, detect or investigate the most serious crimes, such as murder and terrorism.

The Commission was made aware in the last couple of days of a new proposed change to the variable geometry recitals in the Eurodac Regulation. The Council's legal service argued they should be deleted. The Commission proposal put forward the recitals. We considered them helpful to clarify the legal clarity of application of the new acquis. In view of all the efforts that have been made to finalise this file and in order not to prevent the adoption, we can accept the deletion of those recitals. However, we strongly urge that such deletion be accompanied by a statement clarifying the participation of the associated countries in the Recast Regulation. This is the minimum necessary for clarity and transparency with the associated countries.

During the adoption of Eurodac, the Commission offered to undertake two tasks that I am happy to confirm today. Firstly, following consultation with Member States and Parliament, the Commission intends to publish in due course an indicative, non binding model – a Eurodac law enforcement request form – to be sent by the designated authorities to the verifying authorities, which reflects the criteria set out in Article 20(1).

Secondly, Article 40(5) of the recast Eurodac Regulation calls on the Commission to make evaluations of the Eurodac Regulation at fixed intervals. These evaluations will include consideration of the storage period specified in Article 16 for ‘Category 2’ data on persons apprehended irregularly crossing a border; and of the period of time in Article 18 that the data on beneficiaries of international protection should be made available for law enforcement purposes.

This is indeed an important day. The asylum package has been, for me personally, a priority during this mandate. I know it has for many of you as well. A year ago I would have been hesitant in confirming that we would have an agreement before the summer, but today we are there, and I am very happy that it is on the verge of completion and I hope for a strong positive vote tomorrow in the plenary.

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