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ARBEIDS- OG INKLUDERINGSDEPARTEMENT

The Royal Ministry of Labour and Social Inclusion

JGM

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Green Paper on the future Common European Asylum System and Report from the Commission to the European Parliament and the Council on the evaluation of the Dublin System - Response from Norway

Reference is made to the Green Paper dated 6. June 2007 (COM (2007) 301), and the report of the same date from the Commission to the European Parliament and the Council on the evaluation of the Dublin System (COM (2007) 299).

Norway appreciates the initiative taken by the Commission to launch a broad discussion among all relevant stakeholders on the future Common European Asylum System (CEAS). We have used this opportunity to transmit the Green Paper to relevant central NGOs etc. in Norway, and invited them to submit their contributions to the Commission in the forthcoming process. This letter contains comments of the immigration authorities in Norway.

Green Paper on the future Common European Asylum System

Introduction

We emphasize that Norway does not take part in the Common European Asylum System. However, we do participate in the cooperation on Dublin II and Eurodac. These two instruments are of great value to Norway. Increased European harmonisation in the field of asylum is affecting Norway, and this aspect has been important in our work with our new Immigration Act which was forwarded to the Parliament in June. As Norway is situated in the far North of Europe, many asylum seekers have entered the Schengen area, and perhaps also applied for asylum, in another Schengen-state before arriving in

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Norway. Hence, could the future of CEAS have significance for Norway in many respects, even though we do not take part in it.

Processing of asylum applications

Establishing **common procedures for the processing of asylum applications**

within EU could have positive effects for the work of the immigration authorities in all Member States, as it could create a basis for an easier and more effective assessment of the substance and quality of decisions from the Schengen-states. The **establishment of basic guidelines in order to secure the quality of the decision process, possible time limits or targets regarding the duration of the asylum procedure etc.**, should also have a positive effect on these immigration authorities' processing of asylum applications. The establishment of common procedures could also give easier access to practice within the Schengen-states in this area.

Granting of protection

In the proposal for a new Immigration Act in Norway, a detailed definition of who are eligible for protection is given. The definition is based on the definitions in the EC Qualification Directive. However: While the Qualification Directive differentiates between those eligible for protection under the 1951 Convention (refugees) and those eligible for subsidiary protection according to other international protection instruments, we will grant refugee status to both categories, and both categories will thus have the same rights with regard to family reunification etc. This proposal is in line with one of the options discussed in the Green Paper; to **grant all persons who under the current legal framework would be eligible either for refugee status or for subsidiary protection one single uniform status**. If such uniform status is *not* introduced within the EU, the practical effect will be that more asylum applicants will be granted refugee status in Member States which have one single uniform status than in the others. Therefore, it would be positive if all Members States repeal the difference between those eligible for refugee status or for subsidiary protection.

Cross-cutting issues

Norway would welcome a discussion *on how the standards concerning response to situations of vulnerability could be further developed* as it could result in a more common approach and practice within EU in responding to needs of the most vulnerable asylum seekers. Basic humanitarian considerations require that the issue of strengthening the rights of these asylum seekers should be addressed.

Report from the Commission to the European Parliament and the Council on the evaluation of the Dublin System

Introduction

As earlier emphasised the co-operation on Dublin II and EURODAC is of great value to

Norway. As an example, we can mention that the outgoing Dublin transfers constitute an 18 % share of the overall number of asylum applications in Norway in 2006, which is a high number compared to many Member States. Thus, the evaluation of the Dublin System and possible amendments of this is of utmost importance to Norway. We consider the report from the Commission to be a result of comprehensive and thorough work from the Commission, where input from the Member States has been important in preparing the proposals. The proposals that are forwarded indicate that the main purpose is to clarify the Dublin regulation in order to establish more effective procedures and the practical application of the Dublin System. Thus are we at this point in general positive to the proposals put forward in the report, and we anticipate the results of these proposals with great interest and look forward to participate in the coming discussions in the EU.

Application of the Dublin system

Figures and overall findings

In its findings the Commission points to that the **analysis of the statistics provided by the Member States proved extremely difficult**, due to different interpretations of the definitions for registration and the incompleteness of certain data. In our opinion does this underline the importance of common rules for the reporting of statistics, and that the Member States develops suitable tools for producing statistics that the Commission requires.

Practical implementation and possible improvements

Consistency with the EU asylum acquis

Reference is made to that the Commission intend to propose to **extend the scope of the Dublin Regulation to include subsidiary protection**. Norway see several reasons in favour of such an extension of the scope; i.a. a supposition that close family-members of those granted protection could have the same grounds for protection, and that there regardless of this supposition are justified grounds for the same Member State taking responsibility for the processing of applications from close family-members. Norway therefore supports the intended proposal.

Uniform application

The Commission will propose to **better specify the circumstances and procedures for applying both the sovereignty and humanitarian clause**. Norway is positive to giving a more precise legal base for applying the humanitarian clause. Regarding the question of applying the sovereignty clause, do we not have any comments at this stage, and will have to assess this in connection with the coming discussion of the proposals.

Also, the Commission wants to **clarify the circumstances under which the responsibility of a Member State ceases**. The immigration authorities in Norway encounter occasionally questions related to the interpretation on when the

responsibility of a Member State ceases, and we would therefore welcome a clarification on this point.

Norway also endorses the proposal to **further clarify the applicability of the Dublin rules to unaccompanied minors**. We want to emphasise the importance of a common practice, an effective processing within the Dublin rules, and rapid transfers in these cases involving unaccompanied minors, especially considering the vulnerability of those asylum seekers.

Evidence

Norway do endorse the statement of the Commission on the importance that, in particular **in view of family reunification, Member States should apply the Dublin Regulation and its Implementing Rules in their entirety**, using all means of proofs foreseen, including credible and verifiable statements of the asylum seeker. This is based on that Norwegian immigration authorities seem to have registered a tendency among Member States to set stricter standard of proofs than the regulation does warrant

Deadlines

The Commission will propose **time limits for “take back” requests and to shorten the deadline for replying to requests for information to 4 weeks**. Norway acknowledges that time limits for “take back” requests could secure a more effective application of the Dublin Regulation, even if it could result in a dual assessment of the application in cases where there deadlines are not kept. Hence, this would imply a request for the Member States to establish effective procedures in order to prevent that they have to take responsibility because the deadlines are not kept.

However, Norway does not consider the proposal to **shorten the deadline for replying to request for information from 6 to 4 weeks** as being suitable for the purpose. Reference is made to that the problem is related to that the present deadline of 6 weeks is not kept, and is not subject to sanctions. In this matter we consider that the proposal will be of minor importance to address the present problem.

Transfers

The Commission will examine the possibility to **allow Member States to conclude bilateral arrangements concerning “annulment” of the exchange of equal numbers of asylum seekers in well-defined circumstances**. We assume that these types of arrangements mostly will relate to requests for “take charge” and not “take back” where the applicant already has, or has had, an application for asylum in another Member State. There is however a certain risk that such arrangements could undermine the object of the Dublin System if they would contribute to asylum applications being processed in several Member States, and therefore could work as an invitation for secondary movement where the applicant travel to another Member State with the purpose of being “annulled”. We assume that the Commission takes into

account this possible risk of dilution of the objects of the Dublin System by such arrangements, when preparing possible selection criteria.

Application of the EURODAC Regulation

Deadlines

The Commission will propose a **clear deadline for transmitting data to the EURODAC Central Unit**. Norway is very positive to this proposal, but recommends that possible sanctions for not complying with this deadline also should be discussed.

Deletion of data

Norway considers the proposal of **introducing specific codes for each type of deletion of data** (cfr. Articles 7 and 10(2) EURODAC Regulation), i.a. in order to better monitor the respect of this obligation, to be interesting as it should make the process of deletion of data more clearly set out.

EURODACS support to the Dublin Regulation

Reference is made to the observation of the Commission that in 2005 an 16 % share of the overall asylum applications were multiple applications, which might indicate that the Dublin system did not have the expected deterrent effect against the “asylum shopping” phenomenon. As one measure that could help prevent this phenomenon does the Commission point at the **provision of correct information to asylum seekers about the consequences of subsequent applications**. It is unrealistic to believe that the Dublin system alone could prevent the phenomenon of “asylum shopping” altogether, but Norway do agree with the Commissions view that better information to asylum seekers could be an important preventive measure. This should be the responsibility for immigration authorities, relevant NGOs and lawyers representing the asylum applicants.

Also, in order to simplify the analysis of multiple hits, will the Commission i.a. propose **mechanisms for Member States to keep each other informed of the status of EURODAC data subjects**, notably in order to introduce more information about the status of asylum seekers. Norway hopes that this will be introduced, as the process of finding the responsible Member State should be made easier and more effective when updated information about the status of asylum applicants is available.

Possible future development of EURODAC Regulation

Under this point does the Commission give notice that it intends to propose the **storage of data of person apprehended when illegally staying on the EU territory**. In our opinion this should result in more hits in the EURODAC Central Unit, thus should it imply that it would result in more transfers pursuant to the Dublin Regulation. Norway supports this as an initiative for a more effective application of the Dublin Regulation.

Yours sincerely,



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