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8. Calls for closer cooperation between competent bodies at regional level through exchanges of information relating to the state of coastal zones and the adoption of joint strategies to improve the environmental situation of local marine ecosystems;
9. Calls on the national and regional governments of the outermost regions to prepare integrated ICZM strategies in order to ensure the sustainable development of coastal regions;
10. Emphasises the importance, in the above contexts, of proper spatial planning;
11. Aquaculture for repopulation purposes is an essential tool to achieve ecological conservation in certain coastal zones, and it must therefore be promoted, stimulated and financially supported;
12. Stresses the importance of aquaculture to the food industry for social and economic development in some EU coastal communities;
13. Considers that the fisheries and aquaculture sectors must both be included in a cross-cutting approach to all maritime activities taking place in coastal zones, in order to achieve sustainable development, in accordance with the new maritime policy guidelines;
14. Stresses the need to develop and implement strategies to adjust to the dangers facing coastal zones, including climate change, taking fully into account the impact on fishing and aquaculture;
15. Believes that data collection efforts must continue so as to contribute to the exchange and the use of information with a view to carrying out comparative studies, including data on the state of biodiversity and fish stocks;
16. Considers that greater research efforts should be made in aquaculture with a view to introducing cultivation systems based on closed-circuit intensive production;
17. Proposes that aquaculture projects which use renewable energy sources and which do not infringe areas protected under EU environmental law should be given priority under ICZM;
18. Calls on the Commission, after consulting the Member States, to set a clear timetable for examining progress in the implementation of ICZM in the European Union;
19. Instructs its President to forward this resolution to the Council and the Commission and to the governments and parliaments of the Member States.

Evaluation of the Dublin system

P6_TA(2008)0385

European Parliament resolution of 2 September 2008 on the evaluation of the Dublin system (2007/2262(INI))

(2009/C 295 E/02)

The European Parliament,

- having regard to Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national ('the Dublin Regulation') ⁽¹⁾,
- having regard to Council Regulation (EC) No 2725/2000 of 11 December 2000 concerning the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of the Dublin Convention ('the Eurodac Regulation') ⁽²⁾,

⁽¹⁾ OJ L 50, 25.2.2003, p. 1.

⁽²⁾ OJ L 316, 15.12.2000, p. 1.

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- having regard to Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third-country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted ⁽¹⁾,
 - having regard to Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers ⁽²⁾ ('the Reception Directive'),
 - having regard to Regulation (EC) No 862/2007 of the European Parliament and of the Council of 11 July 2007 on Community statistics on migration and international protection and repealing Council Regulation (EEC) No 311/76 on the compilation of statistics on foreign workers ⁽³⁾,
 - having regard to the Council Conclusions on access to Eurodac by Member States' police and law enforcement authorities as well as Europol ⁽⁴⁾,
 - having regard to Decision No 573/2007/EC of the European Parliament and of the Council of 23 May 2007 establishing the European Refugee Fund for the period 2008 to 2013 as part of the General programme Solidarity and Management of Migration Flows and repealing Council Decision 2004/904/EC ⁽⁵⁾,
 - having regard to its resolution of 6 April 2006 on the situation with refugee camps in Malta ⁽⁶⁾,
 - having regard to the reports of the Committee on Civil Liberties, Justice and Home Affairs on its visits to detention centres in several Member States,
 - having regard to its resolution of 21 June 2007 on asylum: practical cooperation, quality of decision-making in the common European asylum system ⁽⁷⁾,
 - having regard to its resolution of 16 January 2008: Towards an EU strategy on the rights of the child ⁽⁸⁾,
 - having regard to its resolution of 13 March 2008 on the case of the Iranian citizen Seyed Mehdi Kazemi ⁽⁹⁾,
 - having regard to Rule 45 of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A6-0287/2008),
- A. whereas every asylum seeker is entitled to a full, individual examination of his or her claim,
- B. whereas asylum legislation and practice still vary widely from country to country and, as a result, asylum-seekers receive different treatment from one Dublin State to another,
- C. whereas the Dublin system is rooted in such premises as mutual trust and reliability and, if these prerequisites are not fulfilled, i.e. if there are serious gaps in data collection or inconsistencies in the decision-making process in certain Member States, the whole system suffers,

⁽¹⁾ OJ L 304, 30.9.2004, p. 12.

⁽²⁾ OJ L 31, 6.2.2003, p. 18.

⁽³⁾ OJ L 199, 31.7.2007, p. 23.

⁽⁴⁾ 2807th Justice and Home Affairs Council meeting in Luxembourg, 12 and 13 June 2007.

⁽⁵⁾ OJ L 144, 6.6.2007, p. 1.

⁽⁶⁾ OJ C 293 E, 2.12.2006, p. 301.

⁽⁷⁾ OJ C 146 E, 12.6.2008, p. 364.

⁽⁸⁾ Texts Adopted, P6_TA(2008)0012.

⁽⁹⁾ Texts Adopted, P6_TA(2008)0107.

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- D. whereas there is evidence that some Member States do not guarantee effective access to a procedure for determining refugee status,
- E. whereas some Member States do not apply the Reception Directive effectively, either to asylum applicants awaiting transfer to another Member State under the Dublin Regulation, or at the point of return to the Member State responsible,
- F. whereas some Member States systematically place persons subject to the Dublin system in detention,
- G. whereas the high level of multiple requests and the low level of effected transfers are indicators of the deficiencies of the Dublin system and of the need to establish a common European asylum system,
- H. whereas a correct implementation of the Dublin Regulation may well result in the unequal distribution of responsibility for persons seeking protection, to the detriment of some Member States particularly exposed to migration flows simply on the grounds of their geographical location,
- I. whereas the Commission's evaluation reveals that, in 2005, the thirteen Member States at the borders of the Union had to deal with increasing challenges raised by the Dublin system,
- J. whereas southern Member States are having to accept asylum applications from irregular immigrants who are rescued when in distress whilst they are on their way to Europe,
- K. whereas southern Member States are having to accept asylum applications from irregular immigrants without any assistance from third countries which are obliged to provide such assistance under international law,
- L. whereas Member States may have no interest in complying with the obligation of registering illegal entrants in the Eurodac database, as this may result in increasing the number of applications for asylum which they will have to deal with,
- M. whereas the Dublin Regulation establishes a system which is designed to determine the Member State responsible for dealing with a claim, but it was not originally put in place for, and therefore fails to serve as, a burden-sharing mechanism,
- N. whereas it is essential that any evaluation of the Dublin system is accompanied by a concrete, permanent, fair and functional burden-sharing mechanism,
- O. whereas the Dublin system's first-country-of-entry criteria put a lot of pressure on the border Member States,
- P. whereas recognition rates of candidates for refugee status vary for certain third-country nationals from approximately 0 % to 90 % within Member States,
- Q. whereas it is essential that individuals lodging claims are fully apprised of the Dublin process, in a language which they understand, and its possible consequences,
- R. whereas Article 24(2) of the Charter of Fundamental Rights of the European Union states that in all actions relating to children, whether taken by public authorities or private institutions, the child's best interests must be a primary consideration,
- S. whereas although family unity is mentioned first in the hierarchy of criteria applied in the Dublin Regulation, that provision is not often applied,

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- T. whereas there is an obvious lack of accuracy in statistical data on transfers, as they do not indicate, for instance, the rate of requests for taking charge of an asylum applicant based on an irregular crossing of the border, or the proportion of 'taking charge' versus 'taking back' requests,
- U. whereas in 2005 nine of the new Member States stated that they were registering more 'incoming' transfers under the Dublin Regulation and Member States with no external land border of the Union stated that they were registering more 'outgoing' transfers,
- V. whereas the Commission has been unable to evaluate the cost of the Dublin system and whereas that information is important to be able to assess its effectiveness,
- W. whereas the Justice and Home Affairs Council meeting in Luxembourg on 12 and 13 June 2007 invited the Commission to present as soon as possible an amendment to the Eurodac Regulation with the aim of enabling Member States' police and law-enforcement authorities, as well as Europol, to have access under certain conditions to Eurodac, a database which was conceived originally as a tool for implementing the Dublin Regulation,

Efficiency of the system and responsibility sharing

1. Strongly believes that unless a satisfactory and consistent level of protection is achieved across the European Union, the Dublin system will always produce unsatisfactory results from both the technical and the human viewpoints, and asylum seekers will continue to have valid reasons for wishing to lodge their application in a specific Member State to take advantage of the most favourable national decision-making;
2. Strongly believes that in the absence of a genuine common European asylum system and a single procedure the Dublin system will continue to be unfair both to asylum seekers and to certain Member States;
3. Reaffirms the urgent need for the improvement of both the quality and the consistency of the decision-making process; is convinced that a European Asylum Support Office could play a valuable role in this respect, for example in providing training to high common standards and through the provision of expert support teams;
4. Asks the Commission to consider ways of providing the United Nations High Commissioner for Refugees (UNHCR) with direct financing to complement project-based funding in order to enable it to enhance its monitoring and advisory work in the EU and continue developing methods intended to support national authorities in their efforts to improve the quality of their decision-making;
5. Asks the Commission to bring forward proposals for burden-sharing mechanisms which could be put in place in order to help alleviate the disproportionate load which could fall on certain Member States, in particular the border Member States, but do not fit into the Dublin system;
6. Calls on the Commission, pending the introduction of European burden-sharing mechanisms, to consider providing for mechanisms other than financial within the Dublin Regulation to correct the adverse effects of its implementation for the smaller Member States at the Union's external borders;
7. Asks the Commission to provide for a binding mechanism to stop transfers of asylum applicants to Member States that do not guarantee full and fair treatment of their claims and to take systematic measures against those States;
8. Calls on the Commission to establish meaningful bilateral working relations with third countries in order to facilitate cooperation and ensure that such third countries meet their international legal obligations with regard to the Geneva Convention relating to the Status of Refugees of 28 July 1951 and rescue at sea;

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Rights of the claimants

9. Asks the Commission to introduce into the new regulation clearer and more stringent provisions concerning the means by which the persons seeking protection are informed of the implications of the Dublin Regulation, and to consider drafting a standard leaflet which could be translated into a certain number of languages and be distributed to all Member States, and which should also take into account the individual levels of literacy;

10. Asks the Commission to amend Articles 19 and 20 of the Dublin Regulation on 'taking charge and taking back', so as to provide applicants with an automatic suspensory right of appeal against a decision to transfer responsibility to another Member State under the Dublin Regulation;

11. Reaffirms that the principle of *non-refoulement* should remain one of the cornerstones of any common asylum system at European Union level, and insists that the implementation of the Dublin Regulation should never lead to a claim being closed for procedural reasons and not reopened for a full and fair examination of the original claim after a transfer via the Dublin process; considers that this should be made clear in the Regulation;

12. Considers that information-sharing on transfers between Member States should be improved, especially with respect to special medical care needed for the transferees;

13. Calls on the Commission to assess the possibility for individuals concerned by a transfer to another Member State under the Dublin system to be able to be transferred to their country of origin, solely at their express request and on the basis of full compliance with procedural rights;

Family reunification and the principle of the best interest of the child

14. Recommends that a set of common guidelines on age-assessment be adopted at European Union level and that in the event of uncertainty, the benefit of the doubt be given to the child;

15. Recalls that in all decisions relating to children, the best interests of the child must be paramount; insists that unaccompanied minors should never be detained or transferred to another Member State, except for the sake of family reunification, and that if such a transfer proves necessary, the child must be duly represented and accompanied throughout the procedure; welcomes, therefore, the Commission's intention to further clarify the applicability of Dublin rules to unaccompanied minors;

16. Regrets that the definition of a family member under the current Regulation is too restrictive and asks the Commission to extend the present definition to include all close relatives and long-term partners, particularly those who have no other family support, and adult children unable to care for themselves;

17. Welcomes the Commission's intention to extend the scope of the Dublin Regulation to include subsidiary protection, as this should enable applicants for subsidiary protection to be reunited with family members who were granted this type of protection or are asking for it in another Member State;

Detention

18. Asks the Commission to add a provision restricting the detention of Dublin claimants to a measure of last resort, thereby specifying the grounds on which detention may be employed and the procedural safeguards which should be provided for;

19. Asks the Commission to state explicitly in the Dublin Regulation that Dublin claimants are entitled to the same reception conditions as other asylum seekers, in accordance with the Reception Directive, Article 3(1) of which lays down general rules notably on material reception conditions, health care, freedom of movement and the schooling of minors;

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Humanitarian and Sovereignty Clauses

20. Considers that the humanitarian clause contained in Article 15 of the Dublin Regulation gives considerable flexibility to the Dublin system, but that it should be applied more widely, so as to avoid undue hardship to families as a result of separation;

21. Considers that where an asylum seeker is in a particularly vulnerable state owing to a serious illness, a severe disability, old age or pregnancy, and he or she is therefore dependent on the assistance of a relative present in the territory of a Member State other than the one in charge of the examination of the application, he or she should, as far as possible, be reunited with that relative; asks the Commission to consider making compulsory the relevant provisions of the humanitarian clause in Article 15(2);

22. Considers that a proactive duty to trace family members should be introduced for organisations such as the Red Cross and Red Crescent;

23. Welcomes the Commission's intention to better specify the circumstances and procedures for applying the Sovereignty clause, notably in order to introduce the condition of the asylum-seeker's consent;

Data collection and Eurodac

24. Expresses its concern at the discrepancies and deficiencies in the collection of data revealed by the Commission's evaluation of the Dublin system, especially in relation to the registering of fingerprints of illegal entrants at the borders of the Union, which casts serious doubts on the validity of the system; trusts that the abovementioned Regulation (EC) No 862/2007 on Community statistics on migration and international protection will give the stakeholders a more accurate picture of the functioning of the Dublin system and other Community instruments on international protection;

25. Expresses its concern that no cost-assessment of the Dublin system is currently available; calls on the Commission to remedy this as it is an important aspect of the evaluation of the system;

26. Notes with interest the concerns expressed by the Commission regarding the collection and the quality of data sent to the Eurodac Central Unit, as well as regarding non-compliance with the obligation to delete certain data and with the rules relating to the protection of personal data; considers that these failings, which call into question the reliability of Eurodac, should be addressed properly before any other use of this database be envisaged;

27. Considers that each Member State should clarify, on a closed list, the agencies and authorities that have access to the Eurodac database, and for what purpose, in order to prevent any illegal use of data;

28. Stresses that extending access to the Eurodac database to Member States' police and law-enforcement authorities as well as to Europol entails the risk that information may pass to third countries, which could have negative repercussions for asylum seekers and their families; is convinced that this would also increase the risk of asylum seekers being stigmatised;

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29. Instructs its President to forward this resolution to the Council and the Commission.
