



2019/2206(INI)

3.6.2020

DRAFT REPORT

on the implementation of the Dublin III Regulation
(2019/2206(INI))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Fabienne Keller

CONTENTS

	Page
EXPLANATORY STATEMENT - SUMMARY OF FACTS AND FINDINGS	3
MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION.....	12

EXPLANATORY STATEMENT - SUMMARY OF FACTS AND FINDINGS

Introduction

The refugee crisis of 2015-16 turned into a crisis in the asylum system, demonstrating the ineffectiveness of the Dublin III Regulation in responding to such a situation, its structural failings and the numerous shortcomings in its implementation.

The Commission has acknowledged that Dublin is a system ‘*which by design or poor implementation [of the regulation] places a disproportionate responsibility on certain Member States and encourages uncontrolled and irregular migratory flows*’¹. This is why in 2016 it put forward a new proposal to remedy this problem. However, despite the European Parliament approving a negotiating mandate in November 2017, the Council has still not adopted its general approach.

To break the deadlock, the Commission announced a ‘European Pact for Migration and Asylum’, including a new proposal for a revision of Dublin III.

An ambitious reform must be based on detailed knowledge of the strengths and weaknesses of the legal text in force. Although the Commission published two evaluations of the regulation, in December 2015 and March 2016 (Article 46), it has still not submitted its periodic assessment due in July 2018.

Against that backdrop, and in view of the failure of the Dublin III Regulation, the European Parliament has decided to prepare an updated analysis of the regulation, in keeping with its accountability to European citizens for the legislative acts which it adopts.

Methodology

This assessment is based on a range of complementary sources: a public hearing in the LIBE committee held on 19 February 2020, field visits, interviews with stakeholders, two questionnaires sent to all the permanent representations and national parliaments of the Member States applying the regulation, a study by the European Parliamentary Research Service (EPRS)² and regular coordination meetings between the rapporteur and the shadow rapporteurs.

1. **PART I: Post-crisis feedback, learning lessons to overhaul Dublin III**

1.1. The emergence of the Dublin Regulation: gradual harmonisation

At EU level, the establishment of the area of free movement went hand in hand with the launch of European cooperation on asylum. In 1990, the Schengen and Dublin Conventions came into force at roughly the same time.

From the outset, the primary purpose of the Dublin system was to determine the Member State responsible for dealing with an application for asylum in the EU, in an effort to rule out multiple applications. On the basis of the guidelines agreed at the Tampere European Summit in 1999, a Common European Asylum System (CEAS) was set up with a view to bringing about closer harmonisation.

In 2003, the Dublin Convention was incorporated into EU law in the form of the Dublin II Regulation.

¹ COM(2016) 197 final.

² EPRS, ‘Dublin Regulation on International Protection Applications, European Implementation Assessment’, February 2020.

In 2007, the Treaty of Lisbon incorporated the solidarity principle into asylum policy (Article 80 TFEU) and provided for the use of the ordinary legislative procedure. The Council is still required to act unanimously, however, partly explaining the current deadlock.

In 2008, the Commission launched the second phase of the CEAS, with a ‘Policy Plan on Asylum’³, including a revision of Dublin III.

1.2. Unprecedented pressure on the CEAS

In recent years, the EU has faced the greatest migration challenge since the Second World War. In three years, the number of asylum seekers has increased more than fourfold. In 2015-16, 2.5 million people applied for asylum in the EU, compared to 562 000 in 2014 and 278 000 in 2012⁴. The main countries of origin are still Syria, Afghanistan and Iraq, countries torn by civil war, violence and conflict⁵. According to the International Organization for Migration, 33 000 people have died trying to reach Europe since 2014.

Early in 2020, 855 000 asylum applications were still pending, significantly fewer than five years ago⁶. As the European Court of Auditors (ECA) has pointed out, however, in the Greek hotspots people who submitted an asylum application in 2018 were given an interview appointment only in 2022, or even in 2023. Moreover, the ineffectiveness of European policy on the return of persons who are not eligible for asylum is a further significant factor in the overloading of asylum systems.

1.3. Deep imbalances in asylum matters

The exceptional influx of migrants has highlighted imbalances within the EU.

Between 2008 and 2017, one-third of the Member States hosted 90% of the asylum seekers in the EU. In 2018, Germany recorded the largest number of applications (184 180, or 28% of the total), followed by France (120 425 applications, or 19%), Greece (66 695 applications, or 11%), Italy (59 950 applications, or 10%) and Spain (52 700 applications, or 9%). Countries of first entry, such as Greece, Malta and Cyprus, also receive a large number of asylum applications in proportion to their population.

In response to this crisis, some Member States stopped applying the regulation in 2015-16. Many migrants arriving via Greece, Italy or Spain were not registered on Eurodac, owing to a shortage of resources, but also in protest at a lack of solidarity among the Member States.

There is no escaping it: the ‘Dublin system’, almost unchanged since 1990, has failed.

1.4. Emergency measures during the crisis

In response to the 2015 migration spike, the Commission took emergency measures: ‘hotspots’ were set up to manage the reception of migrants and the registration of asylum applications, a temporary relocation mechanism for applicants was introduced, and the operational and financial resources of Frontex and EASO received an unprecedented boost.

These emergency measures failed to remedy the shortcomings in the CEAS and Dublin III. The Greek hotspots are notorious for massive overcrowding and unacceptable health conditions⁷. They currently house 42 000 migrants, as against a planned capacity of 6 000.

To curb the influx of migrants and deter them from making perilous journeys from the Eastern

³ COM(2008)360 final.

⁴ Eurostat.

⁵ EPRS, ‘The reform of the Dublin system’, March 2019.

⁶ EASO, ‘Special Report: asylum trends and Covid-19’, April 2020.

⁷ EU Fundamental Rights Agency (FRA), Opinion 3/2019, March 2019.

Mediterranean, on 18 March 2016 the European Council concluded an agreement with Turkey. The Declaration, drawn up outside the international legal framework and without consulting the European Parliament, was intended as a temporary solution to the refugee crisis. However, the constant diplomatic pressure from the Turkish President, in particular regarding the situation at the Greek-Turkish border, has highlighted the fragility of this agreement and emphasised the need for a sustainable European solution.

The humanitarian situation of migrants, in particular in Greece, means that it is essential to establish a sustainable mechanism for the sharing of responsibility among Member States for the registration of asylum seekers.

1.5. Hotspots, ad hoc agreements and relocation: first signs of solidarity

According to the European Council on Refugees and Exiles (ECRE), the Dublin III Regulation was generally well applied in the hotspots between 2016 and 2018⁸. Invoking the family reunification criterion, Greece transferred 8 604 asylum seekers to other Member States. With the support of EASO, it issued 19 784 requests to take charge of refugees, 43% of which concerned persons in the hotspots.

The ECA is critical of the EU's efforts to support Greece and Italy from 2015 onwards. It identifies operational weaknesses hampering the efficiency of relocation, the use of EASO expert support and poor compliance with deadlines⁹.

In 2015, with the support of Parliament, the Council adopted two decisions on the relocation of 160 000 asylum seekers from Greece and Italy¹⁰. However, the Member States committed themselves to relocating only 98 256 asylum seekers, and ultimately actually relocated only 34 705. Some Member States which were opposed to the decision simply refused to apply it.

In the central Mediterranean, Italy and Malta were under heavy pressure from increased arrivals of migrants transiting through Libya. In the face of the deadlock among the EU27, a number of ad hoc agreements were concluded in 2019 to relocate people rescued at sea. The Dublin III legal framework provided for voluntary transfers to Member States which were signatories to the Malta Declaration.

1.6. Responsibility of the country of first entry and solidarity between Member States

Starting in 1990, the principle of country of first entry was intended to make Member States responsible for the management of the EU's external borders. However, this principle places a disproportionate burden on the countries concerned and makes the provision of operational support by Frontex officers essential.

In addition, while the number of new asylum applications fell in 2017 (654 600) and 2018 (580 000) compared to the 2015-16 peak, 2019 brought a fresh increase of 18%, with 714 000 new asylum applications. That trend was confirmed in the early part of 2020: +20% compared to 2019. Migration routes and countries of origin are also becoming more diverse. Following on from Syrians and Afghans, Venezuelans and Colombians are now arriving in large numbers. The EU therefore needs a solidarity mechanism which makes for fair sharing of burdens and responsibility among Member States, including through relocation on the basis of objective criteria.

⁸ EPRS 2020, p. 39.

⁹ ECA 2019, p. 4, 51.

¹⁰ Council Decision (EU) 2015/1601, recital 23.

2. PART II: Structural shortcomings, differences in interpretation, operational difficulties and political roadblocks

2.1. Obstacles to determining the State responsible for dealing with an asylum application

2.1.1. Requirement to register in Eurodac

When registering an asylum application submitted by a refugee entering the EU, the Member State in question is required to record the person's fingerprints in the Eurodac database. By consulting the Eurodac file, the authorities can verify that the person has not been registered or has not lodged an application for asylum in another Member State.

In 2015, however, before the hotspots were established, the two countries with the highest irregular entry rates, Greece (885 000) and Italy (154 000), recorded only 11 370 and 83 245 asylum applications respectively¹¹. These shortcomings significantly undermine the Dublin system and the country-of-first-entry principle and result in numerous secondary movements.

2.1.2. Skewed application of the hierarchy of criteria for determining the State responsible

Chapter III of the Dublin Regulation establishes a hierarchy of criteria to be used to determine which country must 'take charge' of an asylum seeker. Priority is given to maintaining the family unit (Articles 8 to 11), after which the order is possession of residence documents and visas (Article 12), irregular entry or stay (Article 13), visa-waived entry (Article 14), applications in an international transit area of an airport (Article 15) and the first country in which the application was made (Article 3(2)).

However, requests to take charge do not reflect this hierarchy. In 2018, the family unit criterion was invoked in 5% of cases in France (out of 12 000) and in 3.7% of cases in Germany (out of 17 500). The figures are even lower in Belgium, Sweden, Switzerland or Austria¹², in stark contrast to Greece: 79.3%.

Applications for family reunification are less frequently accepted: in only 48% of cases, compared to an average rate of 67.6% for all procedures. All too often, Member States impose rules to regulate and restrict family reunification by requiring a binding standard of proof (e.g. DNA test, age assessment).

2.1.3. Administrative burden of the Dublin procedures and their inconsistent application

The number of Dublin procedures increased from around 90 000 in 2014 to 160 000 in 2016-17. Between 2016 and 2019, Germany and France issued by far the most requests: 68% of the total for the two countries alone. Spain, Estonia, Lithuania, Latvia, Slovakia, Bulgaria, Poland and Czechia issue few Dublin requests. Surprisingly, Spain issues almost no Dublin requests (7 in 2016; 11 in 2017; 7 in 2018), despite a large and growing number of asylum applications (16 544 in 2016; 31 738 in 2017; 55 570 in 2018). By way of a comparison, Greece issued 2 886

¹¹ Eurostat, CP 44/2016: http://www.assemblee-nationale.fr/dyn/15/rapports/duel15b2342_rapport-information.pdf (see page 23); <https://www.senat.fr/rap/r15-795/r15-7952.html>; https://frontex.europa.eu/assets/Publications/Risk_Analysis/Annual_Risk_Analysis_2017.pdf (see page 18-19).

¹² CoA 2019, p.48.

requests in 2016 (against 51 091 asylum applications), 9 784 in 2017 (against 58 661 asylum applications) and 5 211 in 2018 (against 66 969 asylum applications).

The Dublin system therefore generates a considerable administrative, human and financial burden, while only 11% of transfers are actually carried out. There are also significant differences between countries: 54.6% of transfers carried out in Greece, and 42.2% in Sweden, but only 11.2% in Germany, 6.7% in France, and 1.6% in Italy between 2016 and 2019.

Moreover, the discretionary clauses (Article 17) are rarely applied. The sovereignty clause was only invoked just under 2 000 times in 2018 against a total of more than 155 000 asylum applications. Germany (65%), the Netherlands (13%) and France (10%) used it most frequently. Some countries have used it only once (Austria, Denmark, Poland), others never (Slovenia, Portugal, Romania, Bulgaria, Estonia).

2.1.4. Procedures that are too complex and too lengthy

The administrative formalities to be completed by asylum seekers upon arrival in Europe are complex¹³. The number of bodies involved (administrative, legal, medical, police, NGOs), their geographic dispersal and the fact that they are not always available to help significantly slow down the processing of applications. The lack of cooperation between these bodies and in some cases poor morale among their staff are also factors. In France, for example, asylum seekers are registered in one of the country's 11 prefectures and must all travel to the Paris region for their interview at the National Asylum Agency (OFPRA).

The proportion of Dublin procedures in the total number of asylum applications increased from 15% in 2014 to 26-27% in 2016-17. The Dublin units in the Member States have therefore faced a significant increase in their workload, leading to backlogs and longer processing times.

Some national authorities have undergone a reorganisation in an effort to deal with the overload of cases. The lack of human resources (in particular protection officers and interpreters) is a major factor in delays. According to the information available, Greece, Spain and Cyprus have fewer asylum officers compared to the number of asylum applications. In 2019, Spain had 197 officers for 55 290 applications, compared with 1 121 officers for 5 780 applications in Austria. The growing reliance on temporary staff, for example in Greece and Cyprus, can undermine the authorities' ability to deal with applications.

The Dublin Regulation sets deadlines at each stage of Dublin procedures¹⁴. However, these deadlines are regularly missed by large margins, often several months. There are also differences in interpretation regarding the starting point of each of the procedures, necessitating clarification from the CJEU (see *Mengesteab* judgment).

The failure to apply certain clauses (e.g. family reunification, taking charge of unaccompanied minors) and to meet deadlines also highlights difficulties linked to the need to verify information concerning applicants. Many arrive without an identity document, complicating the task of determining their age, nationality and family ties and necessitating additional checks.

¹³ La Cimade, Dublin Regulation, European asylum machine, April 2019.

¹⁴ See EPRS 2020, p. 68.

2.2. Obstacles to the transfer of asylum seekers

2.2.1. Too short a period of responsibility for Member States

Once a transfer decision has been taken, Member States have six months (18 months if the applicant absconds) to carry out the transfer. After that, the issuing State becomes responsible for the request.

In practice, this limited period of responsibility can encourage Member States who have been asked to take in asylum seekers to delay transfers. It also prompts asylum seekers to stay out of the procedure, and then to apply in another State¹⁵.

Extending the period of responsibility would make it possible to combat secondary movements and irregular stays.

2.2.2. Multiple obstacles

The obstacles are many and varied. They range from refusal or unwillingness to cooperate on the part of the Member States to which requests are made, to the annulment of decisions by national appeal bodies or a failure to meet deadlines. Another important factor is that persons being transferred seek to escape the system. At operational level, the national authorities cite the difficulties in making transfers and the restrictions on transport (often by air) imposed by airlines (limit on the number of persons per flight, requirement to have a ticket bearing a name, no connecting flights, etc.).

The lack of proper reception facilities or non-compliance with Dublin procedures have been the subject of cases brought before the ECJ and the European Court of Human Rights (ECtHR). The courts ruled out transfers to Member States where applicants would be unjustly denied international protection or exposed to violations of their fundamental rights¹⁶.

Appeals against Dublin decisions are also very common. It is a fundamental right, but it prolongs many Dublin procedures, as the rate of appeal is high in all States, up to 80%. In some cases the appeal is used as a way to remain on the territory of a Member State by asylum seekers who do not wish to be transferred.

2.3. Migrants' pathways, an underestimated factor in the European asylum system

2.3.1. Secondary movements, enemy of the principle of the single asylum application

A secondary movement is the movement of a person from the Member State responsible for an asylum application to another Member State. This phenomenon has a profoundly disruptive effect on the Dublin machinery. It hampers the process of designating the responsible Member State, increases the number of Dublin procedures and undermines the principle of a single application for asylum in the EU.

According to the Dutch Advisory Committee on Migration Affairs¹⁷, although the number of asylum applications fell after 2015-16, the number of secondary movements increased considerably. Germany and France are the two main destinations for asylum seekers who undertake secondary movements. The reasons for making them are many: family ties, presence

¹⁵ Dutch Advisory Committee on Migration Affairs 2019.

¹⁶ EPRS 2020, p. 63.

¹⁷ Dutch Advisory Committee on Migration Affairs 2019.

of a diaspora, knowledge of a language, reception conditions, labour market opportunities, refusal of a transfer.

Secondary movements are also prompted by another major flaw in the system: differences in rates of protection. To give one striking example, the rate of protection enjoyed by Afghans varies between 6% and 98%, depending on the Member State concerned. For Iraqis it varies between 8% and 98%. In the absence of a European list of safe countries of origin and a shared analysis of country risks, these differences of assessment push asylum seekers to move to the Member State where they are most likely to receive international protection. Differences in reception conditions for asylum seekers are also an incentive to undertake secondary movements.

An analysis of secondary movements and the relevant trends casts doubt on the pertinence of some of the original Dublin III principles. Differences in living conditions among Member States have an impact on reception conditions. The failure to take account of asylum seekers' aspirations and the limited period of responsibility of Member States push people to move to their desired Member State and to remain outside the system, in order to be able to apply for asylum elsewhere.

National strategies that focus only on sanctions or restrictions on access to asylum, as favoured by a majority of Member States to date, offer only a partial response to this phenomenon. A system that fails to take at least some account of asylum seekers' pathways and their reasons for seeking asylum in a given country is bound to fail¹⁸.

2.3.2. Trends in migratory flows

It is essential, therefore, to analyse migrants' pathways in order to respond to influxes in a more structured manner and streamline asylum procedures.

There has been an increase in the number of asylum applications submitted by people who have entered a country lawfully, on a visa waiver or a residence visa. According to EASO, in 2019 one-quarter of applications were submitted by persons who entered the EU on a visa waiver. The countries they come from, although regarded as safe, offer a very low rate of protection: North Macedonia (1%), Moldova (1%), Venezuela (5%), Albania (6%), Colombia (7%), Ukraine (9%). These many applications, which have little chance of being accepted, clog up asylum systems.

The lack of data on migrants' pathways is a barrier to a better understanding of the dysfunctions of Dublin III. Interoperability of asylum data is therefore essential. EASO should also be given access to Eurodac data under secure conditions to carry out this analysis work and expand eu-LISA's role.

2.3.3. The human impact of the failure of the Dublin system

The ineffectiveness of the Dublin Regulation primarily affects migrants who have already been traumatised in their home countries or during their journey to Europe. The months, even years, of administrative toing and froing, of insecurity, constitute a new trauma and enable human traffickers to maintain a hold on migrants, through prostitution or forced labour networks. The failure of the Dublin system and the CEAS has given rise to numerous violations of fundamental rights. Conditions in the Greek hotspots are now deplorable, and inhumane.

Particular attention needs be paid to the protection of the best interests of children and unaccompanied minors. A number of Member States (Belgium, France, Hungary) have set up specialist units to deal with unaccompanied minors, others (Germany, Poland, Cyprus) employ

¹⁸ Position supported by the Committee of the Regions. Resolution of 8 December 2018 on the CEAS.

specially trained personnel. But these good practices are not universal.

One of the main obstacles is the difficulty of determining migrants' ages. Practices differ from one Member State to another and the reliability of the assessments, for example those based on medical tests, is uncertain. Multidisciplinary approaches, carried out by qualified experts, make it possible to compile sets of relevant indicators and to establish a person's age more reliably (the United Kingdom, Malta, Italy, Greece, the Netherlands and France use such approaches). In addition, although the appointment of a legal representative to accompany or represent minors in asylum procedures is compulsory (Article 6), there are significant gaps in implementation. Lastly, some States do not provide information tailored to minors' needs. The right to information (Article 4) is another principle that is not properly complied with. Problems include: provision of partial information; limited access to legal aid for applicants; language barrier and lack of interpreters; delays in providing information¹⁹. A lack of resources on the ground can explain these shortcomings, but they are also the result of political decisions.

2.4. Discontinuation of the CEAS and Dublin procedures during the COVID-19 crisis

During the health crisis, and as a result of the lockdown measures imposed, Dublin procedures have been significantly cut back or even suspended completely. This is the case in particular for asylum interviews. While some countries have opted for 'remote' sessions, many interviews have been postponed²⁰. On 16 April 2020, EASO published recommendations designed to ensure continuity of the right to asylum, but there is no crisis management plan tailored to the current circumstances, which is further undermining the application of Dublin III.

2.5. Emerging governance arrangements, the growing role of EU agencies

The many disparities in the interpretation and application of Dublin III between Member States are undermining the effectiveness of the regulation. Some are the result of national strategies to combat secondary movements or reduce processing times. Others reflect historical practices or a lack of dialogue between national asylum authorities. The Community interest suffers each time: secondary movements prevented in one country become a problem for another.

Moreover, bilateral agreements have been concluded between Member States and third countries, or between Member States, to improve the efficiency of procedures or ensure the transfer or return of asylum seekers whose applications have been rejected (e.g. the Spain-Morocco agreements; Germany-Albania). Lessons must be learnt from these agreements and replicated on the largest possible scale, to prevent future mistakes.

Convergence in visa policy between Member States is also likely to improve the functioning of the CEAS and of Dublin III, as many asylum seekers arrive lawfully on the territory of the EU, because they qualify for a visa or visa waiver.

To improve convergence between national systems, the Commission runs a network of Member States' Dublin experts. However, it meets too infrequently (once or twice a year) to have an operational role.

It is EASO which is playing an increasingly important and proactive role in improving convergence and mutual trust between Member States and developing a common asylum culture. In 2016, EASO set up the Dublin Units Network, which is more active than its Commission counterpart. EASO also produces many guidance documents²¹. Lastly, the agency

¹⁹ EPRS 2020, pp. 35-37.

²⁰ EASO April 2020: CEAS Information Sheets.

²¹ E.g.: EASO, Practical guide on the implementation of the Dublin III Regulation, October 2019.

carries out training sessions for staff in Dublin units.

Operational support to Member States is thus far the most significant input from EASO in the implementation of the Dublin system. Fostering EASO's emergence as a genuine independent agency is a priority to improve the effectiveness of the CEAS.

Lastly, in the context of the implementation of Dublin III the Commission must also ensure greater consistency with the other CEAS provisions (reception, asylum procedures). An overhaul of the CEAS would be pointless without a significant improvement in the rate of return of persons not eligible for asylum.

MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on the implementation of the Dublin III Regulation (2019/2206(INI))

The European Parliament,

- having regard to Article 78(2)(e) of the Treaty on the Functioning of the European Union (TFEU),
- having regard to Article 80 of the TFEU on the principle of solidarity and fair sharing of responsibility, including its financial implications, between the Member States,
- having regard to Articles 1, 2, 3, 4, and 18 of the Charter of Fundamental Rights of the European Union,
- having regard to Articles 2, 3, 5 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR),
- having regard to Article 14 of the Universal Declaration of Human Rights, adopted by the UN General Assembly in 1948,
- having regard to the 1951 Convention and the 1967 Protocol relating to the Status of Refugees (Geneva Convention),
- having regard to Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 on 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), known as the Dublin III Regulation¹,
- having regard to Council Decisions (EU) 2015/1523 of 14 September 2015² and (EU) 2015/1601 of 22 September 2015³ establishing provisional measures in the area of international protection for the benefit of Italy and of Greece,
- having regard to the Commission proposal to the European Parliament and the Council (COM(2016)0270) to reform the Dublin III Regulation,
- having regard to the negotiating mandate adopted by the committee responsible in report A8-0345/2017 and endorsed in plenary on 16 November 2017, and the confirmation of that negotiating mandate by the Conference of Presidents on 17 October 2019,
- having regard to the judgements of the Court of Justice of the European Union related to Regulation (EU) No 604/2013, in particular C-695/15 PPU *Mirza* (ECLI:EU: C:2016 :188), C-63/15 *Ghezelbash* (Grand Chamber) (*) (ECLI:EU:C:2016:409), C-155/15,

¹ OJ L 180, 29.6.2013, p. 31.

² OJ L 239, 15.9.2015, p. 146.

³ OJ L 248, 24.9.2015, p. 80.

Karim (ECLI:EU:C:2016:410), C-578/16 PPU C.K. and others (*) (ECLI:EU:C:2017:127), C-528/15 Al Chodor (ECLI:EU:C:2017:213), C-36/17 Ahmed (Order) (ECLI:EU:C:2017:273), C-490/16 A.S. (Grand Chamber) (ECLI:EU:C:2017:585), C-646/16 Jafari (Grand Chamber) (*) (ECLI:EU:C:2017:586), C-670/16 Mengesteab (Grand Chamber) (ECLI:EU:C:2017:587), C-60/16 Khir Amayri, ECLI:EU:C:2017:675, C-201/16 Shiri, (ECLI:EU:C:2017:805), C-360/16 Hasan (ECLI:EU:C:2018:35), C-647/16 Hassan (ECLI:EU:C:2018:368), C-213/17 X (ECLI:EU:C:2018:538), C-56/17 Fathi (ECLI:EU:C:2018:803), C-47/17 X (Grand Chamber) (ECLI:EU:C:2018:900), C-661/17 M.A. and others (Grand Chamber) (*) (ECLI:EU:C:2019:53), C-163/17 Jawo (Grand Chamber) (*) (ECLI:EU:C:2019:218), and C-582/17 H. (Grand Chamber) (*) ECLI:EU:C:2019:280,

- having regard to the judgements of the European Court of Human Rights related to Regulation (EU) No 604/2013, and in particular Sharifi v. Austria of 5 December 2013 (Chamber judgment), Mohammadi v. Austria of 3 July 2014 (Chamber judgment), Sharifi and Others v. Italy and Greece of 21 October 2014 (Chamber judgment), and Tarakhel v. Switzerland of 4 November 2014 (Grand Chamber judgment),
- having regard to the Commission’s European Agenda on Migration of 13 May 2015 (COM(2015)0240),
- having regard to the so-called Malta Declaration of September 2019,
- having regard to the study of the United Nations High Commissioner for Refugees of August 2017 entitled ‘Left in limbo’, on the implementation of the Dublin III Regulation of 2017,
- having regard to the studies carried out on behalf of the Commission by ICF on the evaluation of the Dublin III Regulation in 2015 and on the evaluation of the implementation of the Dublin III Regulation in 2016,
- having regard to the European Court of Auditors’ Special Report 2019/24 of November 2019 entitled ‘Asylum, relocation and return of migrants: time to step up action to address disparities between objectives and results’,
- having regard to the Commission communication entitled ‘COVID-19: Guidance on the implementation of relevant EU provisions in the area of asylum and return procedures and on resettlement’ (2020/C 126/02),
- having regard to the report of the European Asylum Support Office of 2 June 2020 on COVID-19 emergency measures in asylum and reception systems,
- having regard to the implementation assessment by the European Parliament Research Service (EPRS) of the Dublin Regulation of January 2019, drawn up by Dr Amandine Scherrer of the Ex-Post Evaluation Unit of Parliament’s Directorate for Impact Assessment and European Added Value (first part) and by the research team of the European Council on Refugees and Exiles (ECRE), at the request of the Ex-Post Evaluation Unit (second part),
- having regard to other studies commissioned by the European Parliament, in particular

the EPRS's implementation appraisal of the Dublin Regulation and asylum procedures in Europe by Gertrud Malmersjö and Milan Remáč of 2016, the study of the Policy Department for Citizens' Rights and Constitutional Affairs (Directorate-General for Internal Policies) on the reform of the Dublin III Regulation by Francesco Maiani of June 2016, the EPRS study 'The Cost of Non-Europe in Asylum Policy' by Wouter van Ballegooij and Cecilia Navarra of October 2018, and the EPRS study on the reform of the Dublin system by Anja Radjenovic of March 2019,

- having regard to the hearing of the Committee on Civil Liberties, Justice and Home Affairs (LIBE) of 19 February 2020,
 - having regard to the replies by Member States' parliaments provided through the automated system ECPRD on their work on the Dublin III Regulation,
 - having regard to the answer provided by Germany to a list of 5 questions sent by the LIBE Chair and the rapporteur to all national authorities involved in the Dublin procedure,
 - having regard to the fact-finding journeys by the rapporteur to Bochum (Germany), Ter Apel (Netherlands), Bucharest (Romania), and Lampedusa (Italy),
 - having regard to Rule 54 of its Rules of Procedure, as well as to Article 1(1)(e) of and Annex 3 to the decision of the Conference of Presidents of 12 December 2002 on the procedure for granting authorisation to draw up own-initiative reports,
 - having regard to the letter from the Committee on Women's Rights and Gender Equality,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A9-0000/2020),
- A. whereas 2.5 million people applied for asylum in the European Union in the period 2015-2016, a fourfold increase compared to 2012-2013;
- B. whereas one-third of the Member States currently play host to 90% of asylum seekers;
- C. whereas in the case of most asylum applications the deadlines laid down as part of Dublin procedures are not met and transfers are not carried out;
- D. whereas there have been significant shortcomings in the implementation of the Dublin III Regulation, including during the COVID-19 crisis, undermining the right to international protection and leading to violations of fundamental rights;

Incorporating the principle of solidarity into the management of asylum seekers

1. Considers that the Dublin system places a significant burden on a minority of Member States, in particular when influxes of migrants occur; takes the view that the EU therefore needs a solidarity mechanism which makes for fair sharing of burdens and responsibility among Member States, including through relocation on the basis of objective criteria of asylum seekers who are manifestly eligible for asylum;

2. Stresses that ad hoc agreements are no substitute for a harmonised and sustainable policy at EU level; deplores the fact that efforts to overhaul the Dublin III Regulation have been blocked in the Council;
3. Notes that the crisis management tool provided for in Article 33 did not provide effective support to the Member States, nor did it offer a response to the consequences of the COVID-19 crisis; considers that a solidarity-based crisis management mechanism, endowed with a financial instrument managed by the Commission, should be established to ensure continuity of the right of asylum in the EU under the best possible conditions;
4. Calls on the Member States to make use of the discretionary clause in Article 17 when exceptional circumstances so warrant, for example to relocate asylum seekers currently living in the Greek hotspots in an atmosphere of extreme tension and to provide decent reception conditions;
5. Urges the introduction, in accordance with international law, of fast-track Dublin procedures at the main points of irregular arrival in the EU, in European reception centres, in order to process asylum applications swiftly, assess their merits, determine the Member State responsible and, where appropriate, return asylum seekers without an unnecessarily prolonged detention period;
6. Highlights the significant operational backing for Dublin procedures provided by the European Asylum Support Office (EASO) in the hotspots; calls on the Commission and the Member States to facilitate the work of EASO staff by allowing interviews in a language other than that of the country in which they are conducted; calls for the establishment of a European Asylum Agency, with sufficient financial and human resources;

Protecting fundamental rights

7. Points out that the protection of fundamental rights must be at the heart of the measures taken to implement the Dublin III Regulation, including the protection of children, victims of trafficking and the most vulnerable;
8. Calls on the Commission to monitor compliance with the hierarchy of criteria more closely; regards it as essential to clarify the conditions for applying the family reunification criterion and to harmonise the standard of proof required; calls on the Member States and the Commission to protect the best interests of children and to clarify the criteria for keeping children in detention;

Simplify procedures and significantly reduce processing times

9. Stresses that the number of transfer procedures has increased significantly, generating considerable human, material and financial costs; deplores, however, the fact that in only 11% of cases are transfers actually carried out, a further factor in the permanent overloading of asylum systems; stresses the lack of cooperation and information-sharing between Member States; regards efforts to combat secondary movements as essential in order to reduce the number of transfer requests; proposes that the conditions which trigger transfer procedures be clarified and harmonised;

10. Considers that in some cases the rules on transfer of responsibility under Dublin III undermine the efficiency of asylum procedures and the carrying-out of transfers and contribute to the increase in the number of secondary movements by encouraging asylum-seekers to remain outside the system; calls on the Commission to revise the rules, in order to give Member States sufficient time to carry out transfers and do away with transfer of responsibility in cases where an asylum seeker absconds;
11. Considers that providing asylum seekers with legal assistance in connection with Dublin procedures, in particular in the hotspots, would simplify the process of obtaining asylum and improve decision-making; calls on the Member States to improve the information made available to asylum seekers on the complex Dublin procedures, to ensure that it is clear and accessible to everyone;

A single asylum application in the EU

12. Stresses that the principle of a single asylum application in the EU is consistently flouted, a state of affairs at odds with the very purpose of the Dublin III Regulation; considers that the competent national authorities should share their relevant information on a European database such as Eurodac, in order to speed up procedures and prevent multiple asylum applications, while protecting personal data;
13. Notes that the rate of protection for asylum seekers varies greatly between Member States for certain nationalities; considers that a common list of safe countries and a shared country-risk analysis, or at least greater convergence, would reduce these disparities, and thus also the number of secondary movements; stresses that the return of persons not eligible for asylum is a prerequisite for the effectiveness of the Dublin III Regulation;

Strengthening governance and convergence between Member States

14. Takes the view that closer cooperation between national asylum authorities is needed, in order to share information and streamline transfers; proposes that EASO be given the task of drawing up enhanced governance arrangements for the application of the Dublin III Regulation, including a monthly operational dialogue between national authorities, and a platform for the exchange and sharing of information and best practices;
15. Notes that some two-thirds of asylum applications are submitted by nationals of safe countries who have arrived in the EU on a visa or visa waiver; considers that these manifestly unfounded applications contribute to the overloading of asylum systems; calls on the Commission and the Member States to make asylum and visa policies more consistent;
16. Proposes that EASO be given an expanded role in analysing the flows of and pathways taken by asylum seekers, in order to better anticipate and understand pressures on asylum systems;
17. Urges the Commission and the Council to work towards convergence in the bilateral agreements concluded between Member States and with third countries, in order to optimise implementation of the Dublin III Regulation;
18. Deplores the fact that the Commission has still not published its Article 46 assessment

report; calls on the Commission to ensure that the Dublin III Regulation is implemented more effectively;

19. Instructs its President to forward this resolution to the Council, the Commission, the governments of the Member States and the national parliaments.