COMMITTEE
SET UP BY ARTICLE 18
OF THE DUBLIN CONVENTION
OF 15 JUNE 1990

Brussels, 3 November 1997 (07.11)

DUBLIN CONV 2408/2/97

REV 2

LIMITE

NOTE

from: Asylum Working Party

to:K.4 Committee

Subject: Draft joint handbook for the common application of the Convention determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities (Dublin Convention)

The Drafting Committee met on 9 September and 3 October 1997 to prepare, on the basis of a Presidency draft, the draft joint handbook for the application of the Dublin Convention.

At its meeting on 3 November the Asylum Working Party approved the outcome of the Committee's proceedings, annexed hereto.

The introduction (p. 5) and the contents list (pp. 7 and 9) show the structure and content which the Drafting Committee wished the handbook to have. The Committee also chose, so that users would have a complete overview of the implementing arrangements for each Article without having to refer via cross-references to other Articles, to list under each Article of the Convention all the relevant implementing arrangements. This explains the repetition of certain sections of text which the reader will note in Section I of this draft handbook.

Means of Proof:

-firstly, they are reproduced in their entirety in Section II, in which will be incorporated (once the Member States have transmitted them to the General Secretariat of the Council) the specimens of Member States' administrative documents on the basis of List A,

-in accordance with the second paragraph of Article 25(1) of Decision 1/97 of the Executive Committee of the Dublin Convention;

-secondly, the probative evidence and the indicative evidence of Lists A and B are mentioned under the relevant Articles.

Finally, it should be noted that the handbook has been designed to evolve over time as implementation of the Dublin Convention provides material to supplement it. In order to avoid reproducing the whole manual, it has been proposed that updates should consist only of pages to be replaced or new pages to be inserted.

The K.4 Committee is asked to take note of this draft handbook with a view to forwarding it, for information, to the Committee set up by Article 18 of the Dublin Convention.

ANNEX

JOINT HANDBOOK FOR THE APPLICATION
OF THE
CONVENTION DETERMINING THE STATE RESPONSIBLE
FOR EXAMINING APPLICATIONS FOR ASYLUM
LODGED IN ONE OF THE MEMBER STATES
OF THE EUROPEAN COMMUNITIES

(DUBLIN CONVENTION)

INTRODUCTION

This joint handbook for the application of the Dublin Convention is intended for practitioners in each European Union Member State called upon to process asylum applications and thereby determine the Member State responsible for examining a given application.

The handbook is made up of five Sections:

I– The text of the Convention Article by Article with, under each one, the implementing procedures decided on by the Executive Committee of the Dublin Convention (Committee set up by Article 18 of the Dublin Convention) and practical examples of implementation which may guide the practitioner in his work ([*]).

The Articles are numbered from **1** to **22**, the implementing procedures from **1(a)** to **22(a)** and the practical examples from **1(b)** to **22(b)**.
The Articles appear on the even pages. The implementing procedures appear on the uneven pages facing the provisions to which they relate. For each provision, the relevant means of proof (where they exist) come at the end of the implementing procedures, although it is always necessary to refer to Section II of the handbook for principles regarding the collection of evidence and general considerations regarding lists A and B.

II– Means of proof in the framework of the Convention (principles and lists A and B), including the specimens of the administrative documents of the Member States on the basis of List A.([*])

III– Annexes.

IV–A summary of national implementing measures adopted by each State party to the Convention.

V–Examples of national legal decisions which have arisen in the course of implementing the Convention which are worth mentioning for the light they can shed on the work of practitioners [1].

1 These headings will be added to in due course and new versions of the pages concerned will be drafted as additions are made.

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SECTION 1: TEXT OF THE CONVENTION, IMPLEMENTING PROCEDURES AND PRACTICAL EXAMPLES

The present Convention is applicable to the fifteen Member States of the European Union: Belgium, Denmark, Germany, Greece, Spain, France, Ireland, Italy, Luxembourg, The Netherlands, Austria, Portugal, Finland, Sweden and the United Kingdom.

The Convention entered into force on the 1st September 1997 between the twelve signatory States: Belgium, Denmark, Germany, Greece, Spain, France, Ireland, Italy, Luxembourg, The Netherlands, Portugal and the United Kingdom.

With effect from 1st October 1997 the Convention is now applicable to Austria and Sweden and it will apply to Finland from 1st January 1998.

1 - <u>ARTICLE 1</u>

1.For the purposes of this Convention:

(a)'Alien' means: any person other than a national of a Member State;

(b)'Application for asylum' means: a request whereby an alien seeks from a Member State protection under the Geneva Convention by claiming refugee status within the meaning of Article 1 of the Geneva Convention, as amended by the New York Protocol;

(c)'Applicant for asylum' means: an alien who has made an application for asylum in respect of which a final decision has not yet been taken;

(d)'Examination of an application' for asylum means: all the measures for examination, decisions or rulings given by the competent authorities on an application for asylum, except for procedures to determine the State responsible for examining the application for asylum pursuant to this Convention;

(e)'Residence permit' means: any authorization issued by the authorities of a Member State authorizing an alien to stay in its territory, with the exception of visas and "stay permits" issued during examination of an application for a residence permit or for asylum;

(f)'Entry visa' means: authorization or decision by a Member State to enable an alien to enter its territory, subject to the other entry conditions being fulfilled;

(g)'Transit visa' means: authorization or decision by a Member State to enable an alien to transit through its territory or pass through the transit zone of a port or airport, subject to the other transit conditions being fulfilled.

2.The nature of the visa shall be assessed in the light of the definitions set out in paragraph 1, points (f) and (g).

1 a) - <u>Implementing Procedures</u>

1 b) - <u>Practical Examples</u>

2 - <u>ARTICLE 2</u>

The Member States reaffirm their obligations under the Geneva Convention, as amended by the New York Protocol, with no geographic restriction of the scope of these instruments, and their commitment to cooperating with the services of the United Nations High Commissioner for Refugees in applying these instruments.

2 a) - <u>Implementing Procedures</u>

2 b) - <u>Practical Examples</u>

3 - ARTICLE 3

1.Member States undertake to examine the application of any alien who applies at the border or in their territory to any one of them for asylum.

2.That application shall be examined by a single Member State, which shall be determined in accordance with the criteria defined in this Convention. The criteria set out in Articles 4 to 8 shall apply in the order in which they appear.

3.That application shall be examined by that State in accordance with its national laws and its international obligations.

4.Each Member State shall have the right to examine an application for asylum submitted to it by an alien, even if such examination is not its responsibility under the criteria defined in this Convention, provided that the applicant for asylum agrees thereto.

The Member State responsible under the above criteria is then relieved of its obligations, which are transferred to the Member State which expressed the wish to examine the application. The latter State shall inform the Member State responsible under the said criteria if the application has been referred to it.

3 a) - <u>Implementing Procedures</u>

Re: para 1

1.An application for asylum is regarded as having been lodged from the moment the authorities of the Member State concerned have something in writing to that effect: either a form submitted by the applicant or an official statement drawn up by the authorities.

2.In the event of a non-written application, the period between the statement of intent and the drawing up of the official statement must be as short as possible.

(Decision 1/97 of the Executive Committee of the Dublin Convention: Article 2 " " OJEC No. L 281/97 p. 1 of 14/10/97)[2]

Re: para 2

A specimen standard form for determining the State responsible for examining an application for asylum is shown in Annex I, Section III of this manual.

Re: para 4

1.The system of exchange of information must also include data on notification procedures. Accordingly, notification must be given:

–as quickly as possible in writing;

–using the technical means available;

–to the Member States claiming responsibility for examining an application for asylum.

2.Such notification, which will avoid the possibility of two procedures being initiated simultaneously in two Member States, applies in respect of Article 3(4) and Article 12.

3.Where implementation of a decision determining responsibility is suspended, such suspension is notified so that the Member States are kept fully informed. It is very useful for the Member State where the application was lodged to be informed that an applicant for asylum is not being transferred pending a decision in his case by the second Member State.

(Decision 1/97 of the Committee: Article 14 "Notification procedures")

2 Hereafter referred to in the manual as "Decision 1/97 of the Committee", without reference to the OJEC

5.Any Member State shall retain the right, pursuant to its national laws, to send an applicant for asylum to a third State, in compliance with the provisions of the Geneva Convention, as amended by the New York Protocol.

6.The process of determining the Member State responsible for examining the application for asylum under this Convention shall start as soon as an application for asylum is first lodged with a Member State.

7.An applicant for asylum who is present in another Member State and lodges an application for asylum there after withdrawing his or her application during the process of determining the State responsible shall be taken back, under the conditions laid down in Article 13, by the Member State with which that application for asylum was lodged, with a view to completing the process of determining the State responsible for examining the application for asylum.

This obligation shall cease to apply if the applicant for asylum has since left the territory of the Member States for a period of at least three months or has obtained from a Member State a residence permit valid for more than three months.

Re: para 7

1.Articles 3(7), 4, 5, 6, 7 and 8 set down the circumstances in which responsibility for examining an asylum application made in one Member State (hereinafter described as the "first" Member State) shall be assumed by another Member State (hereinafter described as the "second" Member State).

(Decision 1/97 of the Committee: Chapter III, "Transfer of Asylum Applicants", Article 18 "Introductory provisions")*1*

.Where the applicant for asylum himself produces proof that he has left the territory of the Member States for more than three months, the second Member State may examine the veracity of that information, if necessary by contacting the third country in which the applicant claims to have been living during that time.

2.In other cases the Member State in which the initial application was lodged has to provide proof, in particular of the date of departure and the destination of the applicant for asylum. In the context of cooperation between Member States, the Member State in which the second application was lodged is best able to give the date on which the applicant for asylum returned to his territory.

(Decision 1/97 of the Committee: Article 8 "Departure from the territory of the Member States")

For the purposes of calculating the periods referred to in the Convention, Saturdays, Sundays and public holidays must be included.

(Decision 1/97 of the Committee: Chapter II "Calculation of Periods of Time in the Framework of the Convention", Article 16 "General rule")

Means of proof
Principles regarding the collection of evidence
and the general considerations regarding lists A and B,
see also Part II of the present handbook
"Means of Proof within the framework of the Convention"

Probative evidence
–*exit stamp;*
–*extracts from third-country registers (substantiating residence);*
–*tickets conclusively establishing entry at an external frontier;*
–*report/confirmation by the Member State from which the asylum-seeker left the territory of the Member States;*
–*stamp of third country bordering on a Member State, bearing in mind the itinerary taken by the asylum-seeker and the date the frontier was crossed.*

(Decision 1/97 of the Committee: Annex III, List A, point I.5 "Departure from the territory of the Member States" (Article 3(7))

Indicative evidence
–*declarations by the asylum applicant;*
–*reports/confirmation of information by international organizations, such as UNHCR;*
–*reports/confirmation of information by another Member State;*
–*re Article 3(7) and Article 10(3): exit stamp where the asylum applicant concerned has left the territory of the Member States for a period of at least 3 months;*
–*reports/confirmation of information by family members, travelling companions, etc.;*

–fingerprints, except in cases where the authorities decided to take fingerprints when the alien crossed the external frontier.

In such cases, they constitute probative evidence as defined in list A;

–tickets;

–hotel bills;

–appointment cards for doctors, dentists, etc.;

–information showing that the asylum applicant has used the services of a courier or a travel agency;

–etc.

(Decision 1/97 of the Committee, Annex III, List B, point I.5, "Departure from the territory of the Member States Article 3(7)")

3 b) - <u>Practical Examples</u>

4 - **ARTICLE 4**

Where the applicant for asylum has a member of his family who has been recognized as having refugee status within the meaning of the Geneva Convention, as amended by the New York Protocol, in a Member State and is legally resident there, that State shall be responsible for examining the application, provided that the persons concerned so desire.

The family member in question may not be other than the spouse of the applicant for asylum or his or her unmarried child who is a minor of under eighteen years, or his or her father or mother where the applicant for asylum is himself or herself an unmarried child who is a minor of under eighteen years.

4 a) - <u>Implementing Procedures</u>

1.Articles 3(7), 4, 5, 6, 7 and 8 set down the circumstances in which responsibility for examining an asylum application made in one Member State (hereinafter described as the "first" Member State) shall be assumed by another Member State (hereinafter described as the "second" Member State).

(Decision 1/97 of the Committee: Chapter III, "Transfer of Asylum Applicants", Article 18 "Introductory provisions")

Means of proof
Principles regarding the collection of evidence
and the general considerations regarding lists A and B,
see also Part II of the present handbook
"Means of Proof within the framework of the Convention"

<u>Probative evidence</u>
–written confirmation of the information by the other Member State;
–extracts from registers;
–residence permits issued to the individual with refugee status;
–evidence that the persons are related, if available;
–consent of the persons concerned.

(Decision 1/97 of the Committee: Annex III, list A, point I.1, "Legal residence in a Member State of a family member recognized as having refugee status (Article 4)")

<u>Indicative evidence</u> [3]
–information from the asylum applicant;
–reports/confirmation of information by international organizations, such as UNHCR.

(Decision 1/97 of the Committee: Annex III, list B, point I.1 "Legal residence in a Member State of a family member recognized as having refugee status (Article 4)")

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3 This indicative evidence must always be followed by an item of probative evidence as defined in list A.

4 b) - <u>**Practical Examples**</u>

5 - ARTICLE 5

1.Where the applicant for asylum is in possession of a valid residence permit, the Member State which issued the permit shall be responsible for examining the application for asylum.

2.Where the applicant for asylum is in possession of a valid visa, the Member State which issued the visa shall be responsible for examining the application for asylum, except in the following situations:

(a)if the visa was issued on the written authorization of another Member State, that State shall be responsible for examining the application for asylum. Where a Member State first consults the central authority of another Member State, inter alia for security reasons, the agreement of the latter shall not constitute written authorization within the meaning of this provision.

(b)where the applicant for asylum is in possession of a transit visa and lodges his application in another Member State in which he is not subject to a visa requirement, that State shall be responsible for examining the application for asylum.

(c)where the applicant for asylum is in possession of a transit visa and lodges his application in the State which issued him or her with the visa and which has received written confirmation from the diplomatic or consular authorities of the Member State of destination that the alien for whom the visa requirement was waived fulfilled the conditions for entry into that State, the latter shall be responsible for examining the application for asylum.

5 a) - **Implementing Procedures**

1.Articles 3(7), 4, 5, 6, 7 and 8 set down the circumstances in which responsibility for examining an asylum application made in one Member State (hereinafter described as the "first" Member State) shall be assumed by another Member State (hereinafter described as the "second" Member State).

(Decision 1/97 of the Committee: Chapter III, "Transfer of Asylum Applicants", Article 18 "Introductory provisions")

Re: para 2

1.Article 5(2) provides for three separate cases where the responsibility of a Member State for examining the application for asylum ceases even if the applicant for asylum is in possession of a valid visa issued by that State.

2.The first exception (sub-paragraph (a)) concerns a visa issued on the authorization of another Member State; as a general rule, exceptional cases should be proved by the Member States which invoked them.

3.The second exception (sub-paragraph (b)) arises from a situation in which an application is lodged in a Member State in which the applicant is not subject to a visa requirement; there will be no need to seek proof since the problem is not relevant.

4.The third exception (sub-paragraph (c)) refers to the case of an applicant for asylum who is in possession of a transit visa issued on the written authorization of the diplomatic or consular authorities of the Member State of final destination; the question of burden of proof is irrelevant here since there is prior written confirmation that the transit visa was issued.

(Decision 1/97 of the Committee: Article 9, "Exceptions where the applicant for asylum is in possession of a visa")

3.Where the applicant for asylum is in possession of more than one valid residence permit or visa issued by different Member States, the responsibility for examining the application for asylum shall be assumed by the Member States in the following order:

(a)the State which issued the residence permit conferring the right to the longest period of residency or, where the periods of validity of all the permits are identical, the State which issued the residence permit having the latest expiry date;

(b)the State which issued the visa having the latest expiry date where the various visas are of the same type;

(c)where visas are of different kinds, the State which issued the visa having the longest period of validity, or where the periods of validity are identical, the State which issued the visa having the latest expiry date. This provision shall not apply where the applicant is in possession of one or more transit visas, issued on presentation of an entry visa for another Member State. In that case, that Member State shall be responsible.

4.Where the applicant for asylum is in possession only of one or more residence permits which have expired less than two years previously or one or more visas which have expired less than six months previously and enabled him or her actually to enter the territory of a Member State, the provisions of paragraphs 1, 2 and 3 of this Article shall apply for such time as the alien has not left the territory of the Member States.

Where the applicant for asylum is in possession of one or more residence permits which have expired more than two years previously or one or more visas which have expired more than six months previously and enabled him or her to enter the territory of a Member State and where an alien has not left Community territory, the Member State in which the application is lodged shall be responsible.

Re: para 3 c)

In the event of an applicant possessing several residence permits or visas issued by different Member States (in particular in the case of Article 5(3)(c)), proof for the purposes of determining the State responsible does not arise in that the relevant information appears in the entry document produced by the applicant for asylum.

(Decision 1/97 of the Committee: Article 10 "Determination of the State responsible in the event of an applicant possessing several residence permits or visas")

Re: para 4

1.As regards the determination of the periods of time, the date of expiry of residence permits or visas is calculated from the date on which the application for asylum is lodged.
2.In addition, checking the expiry date of residence permits and visas is not necessary if such information appears on the asylum applicant's papers.
3.As regards proof that the individual has actually entered a Member State, the following situations should be distinguished:
–if an applicant for asylum has actually entered a Member State, proof can be provided through information supplied by the Member State in which the application for asylum was lodged;
–if an applicant for asylum has not left the territory of the Member States, the Member State which issued the expired residence permit or visa has to provide the information required;
–if an applicant for asylum himself supplies the information that he has left the territory of the Member States, the second Member State in which an application was lodged will check the truth of the statements.

These rules apply in respect of actual entry in both sub-paragraphs of Article 5(4).

(Decision 1/97 of the Committee: Article 11 "Determining the periods of time and actual entry into a State")

Means of proof
Principles regarding the collection of evidence
and the general considerations regarding lists A and B,
see also Part II of the present handbook
"Means of Proof within the framework of the Convention"

Probative evidence
–residence permit;
–extracts from the register of aliens or similar registers;
–reports/confirmation of information by the Member State which issued the residence permit.

(Decision 1/97 of the Committee: Annex III, list A, point I.2, "Valid residence permits (Article 5(1) and (23)) or residence permits which expired less than 2 years previously [and date of entry into force] (Article 5(4)")

Indicative evidence
–declaration by the asylum applicant;
–reports/confirmation of information by international organizations, such as UNHCR;
–reports/confirmation of information by the Member State which did not issue the residence permit;
–reports/confirmation of information by family members, travelling companions, etc.

(Decision 1/97 of the Committee: Annex III, list B, point I.2, "Valid residence permits (Article 5(1) and (3)) or residence permits which expired less than 2 years previously [and date of entry into force] (Article 5(4)")

Probative evidence

–visa issued (valid or expired, as appropriate);

–extracts from the register of aliens or similar registers;

–reports/confirmation by the Member State which issued the visa.

(Decision 1/97 of the Committee: Annex III, list A, point I.3, "Valid visas (Article 5(2) and (3)) and visas which expired less than 6 months previously [and date of entry into force] (Article 5(4)")

Indicative evidence

–declaration by the asylum applicant;

–reports/confirmation of information by international organizations, such as UNHCR;

–reports/confirmation of information by the Member State which did not issue the residence permit;

–reports/confirmation of information by family members, travelling companions, etc.

(Decision 1/97 of the Committee: Annex III, list B, point I.3, "Valid visas (Article 5(2) and (3)) and visas which expired less than 6 months previously [and date of entry into force] (Article 5(4)")

5 b) - **Practical Examples**

6 - ARTICLE 6

When it can be proved that an applicant for asylum has irregularly crossed the border into a Member State by land, sea or air, having come from a non-member State of the European Communities, the Member State thus entered shall be responsible for examining the application for asylum.

That State shall cease to be responsible, however, if it is proved that the applicant has been living in the Member State where the application for asylum was made at least six months before making his application for asylum. In that case it is the latter Member State which is responsible for examining the application for asylum.

6 a) - **Implementing Procedures**

1.Articles 3(7), 4, 5, 6, 7 and 8 set down the circumstances in which responsibility for examining an asylum application made in one Member State (hereinafter described as the "first" Member State) shall be assumed by another Member State (hereinafter described as the "second" Member State).

(Decision 1/97 of the Committee: Chapter III, "Transfer of Asylum Applicants", Article 18 "Introductory provisions")

1.Proof that an applicant for asylum has irregularly crossed the border into a Member State (first sub-paragraph of Article 6) must be examined after the list of means of proof has been drawn up.
2.Proof of a Member State ceasing to be responsible when the applicant for asylum lodges his application in the Member State where he has lived for six months (in accordance with the second sub-paragraph of Article 6) must be supplied in the first instance by the Member State invoking this exception in a spirit of collaboration between the two Member States concerned.
3.If the applicant for asylum claims that he has lived in a Member State for more than six months, it is for that Member State to check the truth of those statements. The initial information to the other Member State concerned will in any case have to include statements made by the applicant for asylum which may be used subsequently as counter-indications.

(Decision 1/97 of the Committee: Article 12 "Irregular crossing of the border into a Member State")

Means of proof

Principles regarding the collection of evidence

and the general considerations regarding lists A and B,

see also Part II of the present handbook

"Means of Proof within the framework of the Convention"

<u>*Probative evidence*</u>

–entry stamp in a forged or falsified passport;

–exit stamp from a country bordering on a Member State, bearing in mind the itinerary taken by the asylum-seeker and the date the frontier was crossed;

–tickets conclusively establishing entry at an external frontier;

–entry stamp or similar endorsement in passport.

(Decision 1/97 of the Committee: Annex III, list A, point I.4, "Illegal entry (first paragraph of Article 6) and legal entry at an external frontier (Article 7(1)")

<u>*Indicative evidence*</u>

–declarations by the asylum applicant;

–reports/confirmation of information by international organizations, such as UNHCR;

–reports/confirmation of information by another Member State or a third country;

–reports/confirmation of information by family members, travelling companions, etc.;

–fingerprints, except in cases where the authorities decided to take fingerprints when the alien crossed the external frontier.

In such cases, they constitute probative evidence as defined in list A;

–tickets;

–hotel bills;

–entry cards for public or private institutions in the Member States;

–appointment cards for doctors, dentists, etc.;

–information showing that the asylum applicant has used the services of a courier or a travel agency;

–etc.

(Decision 1/97 of the Committee: Annex III, list B, point I.4, "Illegal entry (first paragraph of Article 6) and legal entry at an external frontier (Article 7(1)")

Probative evidence

Official evidence showing, in accordance with national rules, that the alien was resident in the Member State for at least six months before submitting an application.

(Decision 1/97 of the Committee: Annex III, list A, point I.6 "Residence in the Member State of application for at least 6 months prior to application (second sub-paragraph of Article 6)")

Indicative evidence

–declarations by the asylum applicant;

–reports/confirmation of information by international organizations, such as UNHCR;

–reports/confirmation of information by family members, travelling companions, etc.;

–declaration issued to permitted aliens;

–fingerprints, except in cases where the authorities decided to take fingerprints when the alien crossed the external frontier.

In such cases, they constitute probative evidence as defined in list A;

–tickets;

–hotel bills;

–appointment cards for doctors, dentists, etc.;

–information showing that the asylum applicant has used the services of a courier or a travel agency;

–etc.

(Decision 1/97 of the Committee: Annex III, list B, point I.6 "Residence in the Member State of application for at least 6 months prior to application (second sub-paragraph of Article 6)")

6 b) - <u>Practical Examples</u>

7 - ARTICLE 7

1.The responsibility for examining an application for asylum shall be incumbent upon the Member State responsible for controlling the entry of the alien into the territory of the Member States, except where, after legally entering a Member State in which the need for him or her to have a visa is waived, the alien lodges his or her application for asylum in another Member State in which the need for him or her to have a visa for entry into the territory is also waived. In this case, the latter State shall be responsible for examining the application for asylum.

2.Pending the entry into force of an agreement between Member States on arrangements for crossing external borders, the Member State which authorizes transit without a visa through the transit zone of its airports shall not be regarded as responsible for control on entry, in respect of travellers who do not leave the transit zone.

3.Where the application for asylum is made in transit in an airport of a Member State, that State shall be responsible for examination.

7 a) - ***Implementing Procedures***

1.Articles 3(7), 4, 5, 6, 7 and 8 set down the circumstances in which responsibility for examining an asylum application made in one Member State (hereinafter described as the "first" Member State) shall be assumed by another Member State (hereinafter described as the "second" Member State).

(Decision 1/97 of the Committee: Chapter III, " Transfer of Asylum Applicants", Article 18 "Introductory provisions")

Means of proof
Principles regarding the collection of evidence
and the general considerations regarding lists A and B,
see also Part II of the present handbook
"Means of Proof within the framework of the Convention"

<u>Probative evidence</u>
–entry stamp in a forged or falsified passport;
–exit stamp from a country bordering on a Member State, bearing in mind the itinerary taken by the asylum-seeker and the date the frontier was crossed;
–tickets conclusively establishing entry at an external frontier;
–entry stamp or similar endorsement in passport.

(Decision 1/97 of the Committee: Annex III, list A, point I.4, "Illegal entry (first paragraph of Article 6) and legal entry at an external frontier (Article 7(1)")

<u>Indicative evidence</u>
–declarations by the asylum applicant;
–reports/confirmation of information by international organizations, such as UNHCR;
–reports/confirmation of information by another Member State or a third country;
–reports/confirmation of information by family members, travelling companions, etc.;
–fingerprints, except in cases where the authorities decided to take fingerprints when the alien crossed the external frontier.
In such cases, they constitute probative evidence as defined in list A;
–tickets;
–hotel bills;

–entry cards for public or private institutions in the Member States;

–appointment cards for doctors, dentists, etc.;

–information showing that the asylum applicant has used the services of a courier or a travel agency;

–etc.

(Decision 1/97 of the Committee: Annex III, list B, point I.4, "Illegal entry (first paragraph of Article 6) and legal entry at an external frontier (Article 7(1)")

7 b) - **Practical Examples**

8 - ARTICLE 8

Where no Member State responsible for examining the application for asylum can be designated on the basis of the other criteria listed in this Convention, the first Member State with which the application for asylum is lodged shall be responsible for examining it.

8 a) - <u>Implementing Procedures</u>

1.Articles 3(7), 4, 5, 6, 7 and 8 set down the circumstances in which responsibility for examining an asylum application made in one Member State (hereinafter described as the "first" Member State) shall be assumed by another Member State (hereinafter described as the "second" Member State).

(Decision 1/97 of the Committee: Chapter III, "Transfer of Asylum Applicants", Article 18 "Introductory provisions")

Means of proof
Principles regarding the collection of evidence
and the general considerations regarding lists A and B,
see also Part II of the present handbook
"Means of Proof within the framework of the Convention"

<u>Probative evidence</u>
–form submitted by the asylum-seeker;
–official report drawn up by the authorities;
–fingerprints taken in connection with an asylum application;
–extracts from relevant registers and files;
–written report by the authorities attesting that an application has been made.

(Decision 1/97 of the Committee: Annex III, List A, point I.7, "Time of application for asylum (Article 8)")

<u>Indicative evidence</u>
–declarations by the asylum applicant;
–reports/confirmation of information by international organizations, such as UNHCR;
–reports/confirmation of information by family members, travelling companions, etc.;
–reports/confirmation by another Member State.

(Decision 1/97 of the Committee: Annex III, List B, point I.7, "Time of application for asylum (Article 8)")

8 b) - Practical Examples

9 - **ARTICLE 9**

Any Member State, even when it is not responsible under the criteria laid out in this Convention may, for humanitarian reasons based in particular on family or cultural grounds, examine an application for asylum at the request of another Member State, provided that the applicant so desires.

If a Member State thus approached accedes to the request, responsibility for examining the application shall be transferred to it.

9 a) - **Implementing Procedures**

9 b) - **Practical Examples**

10 - ARTICLE 10

1.The Member State responsible for examining an application for asylum according to the criteria set out in this Convention shall be obliged to:

(a)take charge under the conditions laid down in Article 11 of an applicant who has lodged an application for asylum in a different Member State;

(b)complete the examination of the application for asylum;

(c)re-admit or take back under the conditions laid down in Article 13 an applicant whose application is under examination and who is irregularly in another Member State;

(d)take back, under the conditions laid down in Article 13, an applicant who has withdrawn the application under examination and lodged an application in another Member State;

(e)take back, under the conditions laid down in Article 13, an alien whose application it has rejected and who is illegally in another Member State.

2.If a Member State issues to the applicant a residence permit valid for more than three months, the obligations specified in paragraph 1, points (a) to (e) shall be transferred to that Member State.

3.The obligations specified in paragraph 1, points (a) to (d) shall cease to apply if the alien concerned has left the territory of the Member States for a period of at least three months.

4.The obligations specified in paragraph 1, points (d) and (e) shall cease to apply if the State responsible for examining the application for asylum, following the withdrawal or rejection of the application, takes and enforces the necessary measures for the alien to return to his country of origin or to another country which he may lawfully

10 a) - <u>**Implementing Procedures**</u>

Re: para 1

2.Article 10(1)(a), (c), (d) and (e), Article 11(5) and Article 13(1)(b) set down obligations and timescales regarding the taking charge or taking back of the applicant from the first to the second Member State.

The term "transfer" is used in this Chapter both for the case of taking charge and taking back.

(Decision 1/97 of the Committee: Chapter III, "Transfer of asylum applicants", Article 18 "Introductory provisions")

Re: para 4

The Member State responsible for examining the application must provide proof that the alien has actually been expelled from the territory of the Member States. These are therefore concrete acts of expulsion, involving an obligation relating to the result rather than the intention, which in effect means that in such cases the Member State must provide written proof.

(Decision 1/97 of the Committee: Article 7 "Measures to expel an alien")

Means of proof
Principles regarding the collection of evidence
and the general considerations regarding lists A and B,
see also Part II of the present handbook
"Means of Proof within the framework of the Convention"

<u>Probative evidence</u>
–form completed by the asylum-seeker;
–official report drawn up by the authorities;
–fingerprints taken in connection with an asylum application;
–extracts from relevant registers and files;
–written report by the authorities attesting that an application has been made.

(Decision 1/97 of the Committee: Annex III, List A, point II.1, "Procedure where an application for asylum is under examination or was lodged previously (Article 10(1)(c), (d) and (e)")

<u>Indicative evidence</u>
–declarations by the asylum applicant;
–reports/confirmation of information by international organizations, such as UNHCR;
–reports/confirmation of information by another Member State.

(Decision 1/97 of the Committee: Annex III, List B, point II.1, "Procedure where an application for asylum is under examination or was lodged previously (Article 10(1)(c), (d) and (e)")

<u>Probative evidence</u>
–exit stamp;
–extracts from third-country registers (substantiating residence);
–exit stamp from a third country bordering on a Member State, bearing in mind the itinerary taken by the asylum-seeker and the date on which the frontier was crossed;
–written proof from the authorities that the alien has actually been expelled.

(Decision 1/97 of the Committee: Annex III. List A, point II.2, "Departure from the territory of the Member State (Article 10(3)")

<u>Indicative evidence</u>
–declarations by the asylum applicant;
–reports/confirmation of information by international organizations, such as UNHCR;
–reports/confirmation of information by another Member State;

–exit stamp where the asylum applicant concerned has left the territory of the Member States for a period of at least three months;
–reports/confirmation of information by family members, travelling companions, etc.;
–fingerprints, except in cases where the authorities decided to take fingerprints when the alien crossed the external frontier.
In such cases, they constitute probative evidence as defined in list A;
–tickets;
–hotel bills;
–appointment cards for doctors, dentists, etc.;
–information showing that the asylum applicant has used the services of a courier or a travel agency;
–etc.

(Decision 1/97 of the Committee: Annex III. List B, point II.2, "Departure from the territory of the Member State (Article 10(3)")

Probative evidence
–written proof from the authorities that the alien has actually been expelled;
–exit stamp;
–confirmation of the information regarding expulsion by the third country.

(Decision 1/97 of the Committee, Annex III, List A, point II.3, "Distance from the territory of Member States (Article 10(4)")

Indicative evidence
–declarations by the asylum applicant;
–reports/confirmation of information by international organizations, such as UNHCR;
–exit stamp where the asylum applicant concerned has left the territory of the Member States for a period of at least three months;
–reports/confirmation of information by family members, travelling companions, etc.;
–fingerprints, except in cases where the authorities decided to take fingerprints when the alien crossed the external frontier.
In such cases, they constitute probative evidence as defined in list A;
–tickets;
–hotel bills

–appointment cards for doctors, dentists, etc.;
–information showing that the asylum applicant has used the services of a courier or a travel agency;
–etc.

(Decision 1/97 of the Committee, Annex III, List B, point II.3, "Distance from the territory of Member States (Article 10(4)")

10 b) - <u>Practical Examples</u>

11 - ARTICLE 11

1.If a Member State with which an application for asylum has been lodged considers that another Member State is responsible for examining the application, it may, as quickly as possible and in any case within the six months following the date on which the application was lodged, call upon the other Member State to take charge of the applicant.

If the request that charge be taken is not made within the six-month time limit, responsibility for examining the application for asylum shall rest with the State in which the application was lodged.

2.The request that charge be taken shall contain indications enabling the authorities of that other State to ascertain whether it is responsible on the basis of the criteria laid down in this Convention.

3.The State responsible in accordance with those criteria shall be determined on the basis of the situation obtaining when the applicant for asylum first lodged his application with a Member State.

4.The Member State shall pronounce judgment on the request within three months of receipt of the claim. Failure to act within that period shall be tantamount to accepting the claim.

11 a) - **Implementing Procedures**

Re: para 1

For the purposes of calculating the periods referred to in the Convention, Saturdays, Sundays and public holidays must be included.

(Decision 1/97 of the Committee: Chapter II "Calculation of periods of time in the framework of the Convention", Article 16 "General rule")

Re: para 4

Any response to a request that charge be taken of an applicant with a view to staying the effect of the provision concerning the three-month deadline laid down in Article 11(4) to produce effect must take the form of a written communication.

(Decision 1/97 of the Committee: Article 3 "Reaction to a request that an applicant be taken in charge")

1.The Member State which is requested to take charge of an applicant should make every effort to reply to the request within a period not exceeding one month from the date on which the request was received.
2.In cases where particular difficulties arise, the requested Member State may also, before the time limit of one month is reached, produce a temporary reply indicating the period within which it will be possible to give a definitive reply. The latter period should be as short as possible and may in no circumstances exceed the period of three months from the date on which the request was received as indicated in Article 11(4)
3.If a negative reply is given within the time limit of one month, the requesting Member State still has the option, within a period of one month from the date on which it receives the negative reply, to contest that reply if, after the date on which the request

5.Transfer of the applicant for asylum from the Member State where the application was lodged to the Member State responsible must take place not later than one month after acceptance of the request to take charge or one month after the conclusion of any proceedings initiated by the alien challenging the transfer decision if the proceedings are suspensory.

was acknowledged, new and important facts have been brought to its attention which show that responsibility lies with the requested Member State. The requested Member State must then respond as quickly as possible.

4.The effects of this provision in practice must be assessed after one year by the Article 18 Committee. At that time it will be considered whether a period of one month can constitute a maximum time limit.

(Decision 1/97 of the Committee: Article 4 "Time limit for replying to a request that an applicant be taken in charge")

For the purposes of calculating the periods provided for in Article 11(4) and Article 13(1)(b), the following rules shall also apply:
–the period begins on the day following receipt of the request;
–the final day of the period is the deadline for sending the reply.

(Decision 1/97 of the Committee: Chapter II "Calculation of periods of time in the framework of the Convention", Article 17 "General Rule")

Re: para 5
2.Article 10(1)(a), (c), (d) and (e), Article 11(5) and Article 13(1)(b) set down obligations and timescales regarding the taking charge or taking back of the applicant from the first to the second Member State.
The term "transfer" is used in this Chapter both for the case of taking charge and taking back.

(Decision 1/97 of the Committee: Chapter III, "Transfer of Asylum Applicants", Article 18 "Introductory provisions")

6.Measures taken under Article 18 may subsequently determine the details of the process by which applicants shall be taken in charge.

Re: para 6

When a request for asylum is submitted to a Member State following refusal to allow entry or residence, arrest as a result of illegal residence or service or execution of a removal measure, that Member State shall forthwith notify this to the Member State deemed to have responsibility; such notification shall give the reasons of fact and law why a swift reply is necessary and the deadline within which a reply is requested. The latter Member State shall endeavour to provide a reply within the specified periods. If this is not possible, it shall inform the requesting Member State thereof as quickly as possible.

(Decision 1/97 of the Committee: Article 5 "Urgent Procedure")

The first Member State shall inform the applicant as soon as possible when a request is made under Articles 11 and 13 to another Member State to take charge of or to take back an applicant and shall inform him of the outcome of that request. Where responsibility is transferred to the second Member State, the notification shall inform the applicant that he is liable to be transferred to the second Member State under Article 11(5) and Article 13(1)(b) and subject to any relevant national laws and procedures. Where the transfer is to be made as described in Article 20(1)(a) and (b) of this Decision, this notification will include information about the time and place to which the applicant should report on arrival in the second Member State.

(Decision 1/97 of the Committee: Article 19 "Notification to the applicant for asylum")

1.Where it is agreed that the applicant should be transferred to the second Member State, the first Member State shall be under an obligation to ensure as far as possible that the applicant does not evade transfer. To this effect, the first Member State will determine, in the light of the circumstances of each case and in accordance with national laws and procedures, how the transfer of the applicant should take place. This may be either:

(a)on his own initiative, with a deadline being set, or

(b)under escort, the applicant to be accompanied by an official of the first Member State.

2.Transfer of the applicant shall be considered completed either when the applicant has reported to the authorities of the second Member State specified in the notification given to him, where the transfer takes place under 1(a) above, or when he has been taken in

charge by the competent authorities of the second Member State, where transfer takes place under 1(b) above.
3.Where transfer takes place under 1(a) above, the second Member State shall inform the first Member State as soon as possible after the transfer is completed, or where the applicant has failed to report within the specified deadline.

(Decision 1/97 of the Committee: Article 20 "Transfer of the applicant for asylum")

1.Articles 11(5) and 13(1)(b) provide that the transfer must be concluded within one month of the second Member State accepting responsibility for examining the asylum application. Member States shall make every effort to conform to these deadlines where transfer is made under Article 20(1)(b) of this Decision.
2.If a transfer has been arranged under Article 20(1)(a) of this Decision but is not completed because of the failure of the applicant to cooperate, the second Member State may begin examination of the application on the information available to it on the expiry of the deadlines specified in Articles 11(5) and 13(1)(b).
3.If the application is refused, the second Member State shall remain responsible for taking back the applicant under the provisions of Article 10(1)(e) unless the provisions of Article 10(2), (3) or (4) apply.
4.Where the transfer of the asylum applicant has to be postponed due to special circumstances such as sickness, pregnancy, criminal detention, etc., and it is therefore not possible to carry out the transfer within the normal period of one month, the Member States concerned shall duly consult and agree on a case-by-case basis on the time limit within which the transfer must take place.
5.Where the asylum applicant avoids implementation of the transfer so that it cannot be carried out, it is irrelevant with regard to responsibility whether the applicant disappeared before or after the formal acceptance of responsibility by the Member State responsible. If the asylum applicant is subsequently found, the Member States concerned should duly consult and agree on a case-by-case basis on the time limit within which the transfer must take place.

6.The Member States concerned must inform each other as quickly as possible if they learn that one of the situations referred to in paragraphs 4 and 5 has arisen. In both the above cases, the Member State responsible for examining the asylum application under the Convention shall remain responsible for taking charge of or taking back the applicant without prejudice to Article 10(2), (3) and (4).

(Decision 1/97 of the Committee: Article 21 "Deadlines for transfer of applicant for asylum")

A specimen laissez-passer for transfer of applicants is shown in Secion III, Annex II of this manual.

11 b) - <u>Practical Examples</u>

12 - ARTICLE 12

Where an application for asylum is lodged with the competent authorities of a Member State by an applicant who is in the territory of another Member State, the determination of the Member State responsible for examining the application for asylum shall be made by the Member State in whose territory the applicant is. The latter Member State shall be informed without delay by the Member State which received the application and shall then, for the purpose of applying this Convention, be regarded as the Member State with which the application for asylum was lodged.

12 a) - <u>Implementing Procedures</u>

1.The system of exchange of information must also include data on notification procedures. Accordingly, notification must be given:
–as quickly as possible in writing;
–using the technical means available;
–to the Member States claiming responsibility for examining an application for asylum.
2.Such notification, which will avoid the possibility of two procedures being initiated simultaneously in two Member States, applies in respect of Article 3(4) and Article 12.
3.Where implementation of a decision determining responsibility is suspended, such suspension is notified so that the Member States are kept fully informed. It is very useful for the Member State where the application was lodged to be informed that an applicant for asylum is not being transferred pending a decision in his case by the second Member State.

(Decision 1/97 of the Committee: Article 14 "Notification Procedures")

12 b) - <u>Practical Examples</u>

13 - ARTICLE 13

An applicant for asylum shall be taken back in the cases provided for in Article 3(7) and in Article 10 as follows:

(a)the request for the applicant to be taken back must provide indications enabling the State with which the request is lodged to ascertain that it is responsible in accordance with Article 3(7) and with Article 10;

(b)the State called upon to take back the applicant shall give an answer to the request within eight days of the matter being referred to it. Should it acknowledge responsibility, it shall then take back the applicant for asylum as quickly as possible and at the latest one month after it agrees to do so.

2.Measures taken under Article 18 may at a later date set out the details of the procedure for taking the applicant back.

13 a) - **Implementing Procedures**

Re: para 1 b) and para 2

2.Article 10(1)(a), (c), (d) and (e), Article 11(5) and Article 13(1)(b) set down obligations and timescales regarding the taking charge or taking back of the applicant from the first to the second Member State. The term "transfer" is used in this Chapter both for the case of taking charge and taking back.

3.The arrangements for transfer of the applicant are set out in Articles 20, 21 and 22 of this Decision.

(Decision 1/97 of the Committee: Chapter III, "Transfer of Asylum Applicants", Article 18 "Introductory provisions")

For the purposes of calculating the periods provided for in Article 11(4) and Article 13(1)(b), the following rules shall also apply:

For the purposes of calculating the periods provided for in Article 11(4) and Article 13(1)(b), the following rules shall also apply:

–the period begins on the day following receipt of the request;

–the final day of the period is the deadline for sending the reply.

(Decision 1/97 of the Committee: Chapter II "Calculation of periods of time in the framework of the Convention", Article 16 "General Rule" and Article 17 "Supplementary Rule")

1.Article 13(1)(b) of the Convention makes it very clear that Member States are obliged to respond to the request to take back the applicant within eight days of its submission.

2.In exceptional cases Member States may, within this eight-day period, give a provisional reply indicating the period within which they will give their final reply. The latter period must be as short as possible and may not in any circumstances exceed a period of one month from the date on which the provisional reply was sent.

3.If the requested Member State fails to react:

–within the eight-day period mentioned in paragraph 1 above,

–within the one-month period mentioned in paragraph 2 above,

it shall be considered to have agreed to take back the applicant for asylum.

(Decisioin 1/97 of the Committee: Article 6 "Exceeding the eight-day period for replying to a request for an applicant to be taken back")

The first Member State shall inform the applicant as soon as possible when a request is made under Articles 11 and 13 to another Member State to take charge of or to take back an applicant and shall inform him of the outcome of that request. Where responsibility is transferred to the second Member State, the notification shall inform the applicant that he is liable to be transferred to the second Member State under Article 11(5) and Article 13(1)(b) and subject to any relevant national laws and procedures. Where the transfer is to be made as described in Article 20(1)(a) and (b) of this Decision, this notification will include information about the time and place to which the applicant should report on arrival in the second Member State.

(Decision 1/97 of the Committee: Article 19 "Notification to the applicant for asylum")

1.Where it is agreed that the applicant should be transferred to the second Member State, the first Member State shall be under an obligation to ensure as far as possible that the applicant does not evade transfer. To this effect, the first Member State will determine, in the light of the circumstances of each case and in accordance with national laws and procedures, how the transfer of the applicant should take place. This may be either:

(a)on his own initiative, with a deadline being set, or
(b)under escort, the applicant to be accompanied by an official of the first Member State.

2.Transfer of the applicant shall be considered completed either when the applicant has reported to the authorities of the second Member State specified in the notification given to him, where the transfer takes place under 1(a) above, or when he has been taken in charge by the competent authorities of the second Member State, where transfer takes place under 1(b) above.

3.Where transfer takes place under 1(a) above, the second Member State shall inform the first Member State as soon as possible after the transfer is completed, or where the applicant has failed to report within the specified deadline.

(Decision 1/97 of the Committee: Article 20 "Transfer of the applicant for asylum")

1. Articles 11(5) and 13(1)(b) provide that the transfer must be concluded within one month of the second Member State accepting responsibility for examining the asylum application. Member States shall make every effort to conform to these deadlines where transfer is made under Article 20(1)(b) of this Decision.

2. If a transfer has been arranged under Article 20(1)(a) of this Decision but is not completed because of the failure of the applicant to cooperate, the second Member State may begin examination of the application on the information available to it on the expiry of the deadlines specified in Articles 11(5) and 13(1)(b).

3. If the application is refused, the second Member State shall remain responsible for taking back the applicant under the provisions of Article 10(1)(e) unless the provisions of Article 10(2), (3) or (4) apply.

4. Where the transfer of the asylum applicant has to be postponed due to special circumstances such as sickness, pregnancy, criminal detention, etc., and it is therefore not possible to carry out the transfer within the normal period of one month, the Member States concerned shall duly consult and agree on a case-by-case basis on the time limit within which the transfer must take place.

5. Where the asylum applicant avoids implementation of the transfer so that it cannot be carried out, it is irrelevant with regard to responsibility whether the applicant disappeared before or after the formal acceptance of responsibility by the Member State responsible. If the asylum applicant is subsequently found, the Member States concerned should duly consult and agree on a case-by-case basis on the time limit within which the transfer must take place.

6. The Member States concerned must inform each other as quickly as possible if they learn that one of the situations referred to in paragraphs 4 and 5 has arisen. In both the above cases, the Member State responsible for examining the asylum application under the Convention shall remain responsible for taking charge of or taking back the applicant without prejudice to Article 10(2), (3) and (4).

(Decision 1/97 of the Committee: Article 21 "Deadlines for transfer of applicant for asylum")

A specimen laissez-passer for transfer of applicants is shown in Secion III, Annex II of this manual.

13 b) - Practical Examples

14 - ARTICLE 14

1.Member States shall conduct mutual exchanges with regard to:

–national legislative or regulatory measures or practices applicable in the field of asylum;

–statistical data on monthly arrivals of applicants for asylum, and their breakdown by nationality. Such information shall be forwarded quarterly through the General Secretariat of the Council of the European Communities, which shall see that it is circulated to the Member States and the Commission of the European Communities and to the United Nations High Commissioner for Refugees.

2.The Member States may conduct mutual exchanges with regard to:

–general information on new trends in applications for asylum;

–general information on the situation in the countries of origin or of provenance of applicants for asylum.

3.If the Member State providing the information referred to in paragraph 2 wants it to be kept confidential, the other Member States shall comply with this wish.

14 a) - <u>Implementing Procedures</u>

Re: para 1, 2nd indent

1. Member States will conduct three-monthly exchanges of statistical information concerning the practical implementation of the Convention using the tables given in Annex IV hereto.

(Decision 1/97 of the Committee: Article 28 "Statistical and Individual Information")

Tables for the three-monthly exchanges of statistical information are shown in Annex III, Section III of this manual.

14 b) - Practical Examples

15 - <u>ARTICLE 15</u>

1.Each Member State shall communicate to any Member State that so requests such information on individual cases as is necessary for:

–determining the Member State which is responsible for examining the application for asylum;

–examining the application for asylum;

–implementing any obligation arising under this Convention.

2.This information may only cover:

–personal details of the applicant, and, where appropriate, the members of his family (full name - where appropriate, former name -, nicknames or pseudonyms, nationality - present and former -, date and place of birth);

–identity and travel papers (references, validity, date of issue, issuing authority, place of issue, etc.);

–other information necessary for establishing the identity of the applicant;

–places of residence and routes travelled;

–residence permits or visas issued by a Member State;

–the place where the application was lodged;

–the date any previous application for asylum was lodged, the date the present application was lodged, the stage reached in the proceedings and the decision taken, if any.

15 a) - <u>Implementing Procedures</u>

1.The system of exchange of information must also include data on notification procedures. Accordingly, notification must be given:

–as quickly as possible in writing;

–using the technical means available;

–to the Member States claiming responsibility for examining an application for asylum.

2.Such notification, which will avoid the possibility of two procedures being initiated simultaneously in two Member States, applies in respect of Article 3(4) and Article 12.

3.Where implementation of a decision determining responsibility is suspended, such suspension is notified so that the Member States are kept fully informed. It is very useful for the Member State where the application was lodged to be informed that an applicant for asylum is not being transferred pending a decision in his case by the second Member State.

(Decision 1/97 of the Committee: Article 14 "Notification Procedures")

2. The Member State to which a request within the meaning of Article 15 is addressed should make every effort to reply to the request if possible immediately and in any event within one month.

(Decisionn 1/97 of the Committee: Article 28 "Statistical and Individual Information")

For the purposes of calculating the periods referred to in the Convention, Saturdays, Sundays and public holidays must be included.

(Decision 1/97 of the Committee: Chapter II "Calculation of periods of time in the framework of the Convention", Article 16 "General Rule")

3.Furthermore, one Member State may request another Member State to let it know on what grounds the applicant for asylum bases his or her application and, where applicable, the grounds for any decisions taken concerning the applicant. It is for the Member State from which the information is requested to decide whether or not to impart it. In any event, communication of the information requested shall be subject to the approval of the applicant for asylum.

4.This exchange of information shall be effected at the request of a Member State and may only take place between authorities the designation of which by each Member State has been communicated to the Committee provided for under Article 18.

Re: para 3

1.Approval must be given in writing.

2.As a general rule an applicant must give his approval when the Member State claiming responsibility for examining the application has submitted a request for exchange of information.

3.The applicant for asylum must in any case know to what information he is giving his agreement.

4.The approval concerns the reasons given by the applicant for asylum and, where applicable, the reasons for the decision taken with regard to the applicant.

(Decision 1/97 of the Committee: Article 13 "Formal rules applying to approval by the applicant for asylum")

Re: para 4

Authorities designatee by the Member States to exchange information:

Belgium:Ministère de l'Intérieur - Office des Etrangers - North Gate II - Bureau R - Convention de Dublin - Bd Emile Jacqmain, 152 - B 1000 Bruxelles

Denmark:Danish Immigration Service - Sandholmgårdsvej 40 - DK 3460 Birkerød

Germany:Bundesamt für die Anerkennung Ausländischer Flüchtlinge - Frankenstr. 210 -D 90343 Nürnberg

Greece:Ministère de l'Ordre public - Direction de la Süreté de l'Etat - Section C -
Bureau "Asile" - Kanellopoulou 4 - GR 101 77 Athènes

Spain: Oficina de Asilo y Refugio - Ministerio del Interior - c/Pradillo, n° 40
E 28002 Madrid

France:Demandes de prise en charge par la France :
Ministère de l'Intérieur - DLPAJ - Place Beauvau - F 75800 PARIS CEDEX 08
Demandes d'informations :
Office français des réfugiés et apatrides (OFPRA) - 45, rue M. Robespierre -
F 94136 Fontenay-sous-Bois

Ireland:Immigration and Citizenship Division - Department of Justice -
72/76 St. Stephen's Green - IRL Dublin 2

Italy:Ministero Dell'Interno - Direzione Generale dei Servizi Civili - Divisione Assistenza ai Profughi - Palazzo Viminale - Via Agostino Depretis - I 00194 ROMA

Luxembourg Ministère de la Justice - Bureau d'accueil pour réfugiés - 31 Bd Prince Henri
L 1724 Luxembourg

Netherlands:Ministerie van Justitie - Directie Vreemdelingenbeleid - Postbus 20301
NL 2500 EH Den Haag

Austria:Bundesasylamt - Dublin Referat - Landstasser Haupstrasse 171 - A 1030 WIEN

5.The information exchanged may only be used for the purposes set out in paragraph 1. In each Member State such information may only be communicated to the authorities and courts and tribunals entrusted with:

–determining the Member State which is responsible for examining the application for asylum;

–examining the application for asylum;

–implementing any obligation arising under this Convention.

6.The Member State that forwards the information shall ensure that it is accurate and up–to-date.

If it appears that this Member State has supplied information which is inaccurate or which should not have been forwarded, the recipient Member States shall be immediately informed thereof. They shall be obliged to correct such information or to have it erased.

7.An applicant for asylum shall have the right to receive, on request, the information exchanged concerning him or her, for such time as it remains available.

If he or she establishes that such information is inaccurate or should not have been forwarded, he or she shall have the right to have it corrected or erased. This right shall be exercised in accordance with the conditions laid down in paragraph 6.

8.In each Member State concerned, the forwarding and receipt of exchanged information shall be recorded.

Portugal:Serviço de Estrangeiros e Fronteiras - Divisão de Refugiados -

Rua Passos Manuel, n° 40 - P 1150 Lisboa

Finland:Ministry of the Interior - Immigration Department - Kirkkokatu 12 - PL 257

SF 00171 Helsinki

Sweden:Swedish Immigration Board - Asylum Department - Box 3147 -

S 200 22 MALMÖ

United

Kingdom:Immigration and Nationality Department - Third Country Unit - Asylum Directorate - Lunar House - Room 1628 - 40 Wellesley Road -

UK Croydon CR9 2 BY

9.Such information shall be kept for a period not exceeding that necessary for the ends for which it was exchanged. The need to keep it shall be examined at the appropriate moment by the Member State concerned.

10.In any event, the information thus communicated shall enjoy at least the same protection as is given to similar information in the Member State which receives it.

11.If data are not processed automatically but are handled in some other form, every Member State shall take the appropriate measures to ensure compliance with this Article by means of effective controls. If a Member State has a monitoring body of the type mentioned in paragraph 12, it may assign the control task to it.

12.If one or more Member States wish to computerize all or part of the information mentioned in paragraphs 2 and 3, such computerization is only possible if the countries concerned have adopted laws applicable to such processing which implement the principles of the Strasbourg Convention of 28 February 1981 for the Protection of Individuals with regard to Automatic Processing of Personal Data and if they have entrusted an appropriate national body with the independent monitoring of the processing and use of data forwarded pursuant to this Convention.

15 b) - <u>Practical Examples</u>

16 - ARTICLE 16

1.Any Member State may submit to the Committee referred to in Article 18 proposals for revision of this Convention in order to eliminate difficulties in the application thereof.

2.If it proves necessary to revise or amend this Convention pursuant to the achievement of the objectives set out in Article 8a of the Treaty establishing the European Economic Community, such achievement being linked in particular to the establishment of a harmonized asylum and a common visa policy, the Member State holding the Presidency of the Council of the European Communities shall organize a meeting of the Committee referred to in Article 18.

3.Any revision of this Convention or amendment hereto shall be adopted by the Committee referred to in Article 18. They shall enter into force in accordance with the provisions of Article 22.

16 a) - **Implementing Procedures**

16 b) - **Practical Examples**

17 - <u>ARTICLE 17</u>

1.If a Member State experiences major difficulties as a result of a substantial change in the circumstances obtaining on conclusion of this Convention, the State in question may bring the matter before the Committee referred to in Article 18 so that the latter may put to the Member States measures to deal with the situation or adopt such revisions or amendments to this Convention as appear necessary, which shall enter into force as provided for in Article 16(3).

2.If, after six months, the situation mentioned in paragraph 1 still obtains, the Committee, acting in accordance with Article 18(2), may authorize the Member State affected by that change to suspend temporarily the application of the provisions of this Convention, without such suspension being allowed to impede the achievement of the objectives mentioned in Article 8a of the Treaty establishing the European Economic Community or contravene other international obligations of the Member States.

3.During the period of suspension, the Committee shall continue its discussions with a view to revising the provisions of this Convention, unless it has already reached an agreement.

17 a) - **Implementing Procedures**

17 b) - **Practical Examples**

18 - <u>ARTICLE 18</u>

1.A Committee shall be set up comprising one representative of the Government of each Member State.

The Committee shall be chaired by the Member State holding the Presidency of the Council of the European Communities.

The Commission of the European Communities may participate in the discussions of the Committee and the working parties referred to in paragraph 4.

2.The Committee shall examine, at the request of one or more Member States, any question of a general nature concerning the application or interpretation of this Convention.

The Committee shall determine the measures referred to in Article 11(6) and Article 13(2) and shall give the authorization referred to in Article 17(2).

The Committee shall adopt decisions revising or amending the Convention pursuant to Articles 16 and 17.

3.The Committee shall take its decisions unanimously, except where it is acting pursuant to Article 17(2), in which case it shall take its decisions by a majority of two-thirds of the votes of its members.

4.The Committee shall determine its rules of procedure and may set up working parties.

The Secretariat of the Committee and of the working parties shall be provided by the General Secretariat of the Council of the European Communities.

18 a) - <u>Implementing Procedures</u>

18 b) - <u>Practical Examples</u>

19 - ARTICLE 19

As regards the Kingdom of Denmark, the provisions of this Convention shall not apply to the Faroe Islands nor to Greenland unless a declaration to the contrary is made by the Kingdom of Denmark. Such a declaration may be made at any time by a communication to the Government of Ireland, which shall inform the Governments of the other Member States thereof.

As regards the French Republic, the provisions of this Convention shall apply only to the European territory of the French Republic.

As regards the Kingdom of the Netherlands, the provisions of this Convention shall apply only to the territory of the Kingdom of the Netherlands in Europe.

As regards the United Kingdom, the provisions of this Convention shall apply only to the United Kingdom of Great Britain and Northern Ireland. They shall not apply to the European territories for whose external relations the United Kingdom is responsible unless a declaration to the contrary is made by the United Kingdom. Such a declaration may be made at any time by a communication to the Government of Ireland, which shall inform the Governments of the other Member States thereof.

19 a) - **Implementing Procedures**

19 b) - **Practical Examples**

20 - ARTICLE 20

This Convention shall not be the subject of any reservations.

21 - ARTICLE 21

1.This Convention shall be open for the accession of any State which becomes a member of the European Communities. The instruments of accession will be deposited with the Government of Ireland.

2.It shall enter into force in respect of any State which accedes thereto on the first day of the third month following the deposit of its instrument of accession.

22 - ARTICLE 22

1.This Convention shall be subject to ratification, acceptance or approval. The instruments of ratification, acceptance or approval shall be deposited with the Government of Ireland.

2.The Government of Ireland shall notify the Governments of the other Member States of the deposit of the instruments of ratification, acceptance or approval.

3.This Convention shall enter into force on the first day of the third month following the deposit of the instrument of ratification, acceptance or approval by the last signatory State to take this step.

The State with which the instruments of ratification, acceptance or approval are deposited shall notify the Member States of the date of entry into force of this Convention.

SECTION II:MEANS OF PROOF WITHIN THE FRAMEWORK OF THE CONVENTION

A - PRINCIPLES REGARDING THE COLLECTION OF EVIDENCE

1.The way in which evidence is used to determine the State responsible for examining an asylum application is fundamental to the implementation of the Convention.

2.Responsibility for processing an asylum application should in principle be determined on the basis of as few requirements of proof as possible.

3.If establishment of proof carried excessive requirements, the procedure for determining responsibility would ultimately take longer than examination of the actual application for asylum. In that case, the Convention would fail totally to have the desired effect and would even contradict one of its objectives since the delays would create a new category of "refugees in orbit", asylum-seekers whose applications would not be examined until the procedure laid down under the Convention had been completed.

4.Under too rigid a system of proof the Member States would not accept responsibility and the Convention would be applied only in rare instances, while those Member States with more extensive national registers would be penalized since their responsibility could be proved more easily.

5.A Member State should also be prepared to assume responsibility on the basis of indicative evidence for examining an asylum application once it emerges from an overall examination of the asylum applicant's situation that, in all probability, responsibility lies with the Member State in question.

6.The Member States should jointly consider in a spirit of genuine cooperation on the basis of all the evidence available to them, including statements made by the asylum-seeker, whether the responsibility of one Member State can be consistently established.

7.Lists A and B referred to in Articles 24 and 25 of this Decision are drawn up on the basis of those considerations.

(Decision 1/97 of the Committee: Article 23)

B - GENERAL CONSIDERATIONS REGARDING LISTS A AND B

1.It was considered necessary to draw up two lists of means of proof: probative evidence as in list A and indicative evidence as in list B.

These lists are to be found in Annex III to this Decision.

2.List A sets out the means of probative evidence which conclusively prove responsibility under the Convention, save where rebutted by evidence to the contrary (e.g. showing documents not to be genuine).

3.List B is not exhaustive and contains means of proof consisting of indicative elements to be used within the framework of the Convention. These are means of proof having indicative value. Indicative evidence as in list B may be sufficient to determine responsibility, depending on the weighing-up of evidence in a particular case. It is by nature rebuttable.

4.These lists may be revised in the light of experience.

5.It seems useful to indicate that the weight carried by these means of proof may vary according to the circumstances of each individual case. Items will be classified as probative evidence or indicative evidence according to the point to be proved. For instance, a fingerprint may provide probative evidence of an asylum-seeker's presence in a Member State, yet form only indicative evidence as to whether the asylum-seeker entered the Community at a particular external frontier.

6.This distinction made it necessary to draw up two separate lists of probative evidence (list A) and indicative evidence (list B) for each point to be proved under the Convention; Annex III hereto gives a breakdown of means of proof according to the point to be proved.

7.By the same token, the probative force of official documents is not always the same from one Member State to another. The same document can be drawn up for different purposes or by different authorities, depending on the Member State concerned.

(Decision 1/97 of the Comittee: Article 24)

<u>Probative force of elements in Lists A and B</u>

The probative force of the elements contained in lists A and B shall be assessed in accordance with the following:

1.List A

The probative evidence in list A provides conclusive proof of a Member State's responsibility for examining an asylum application, save where rebutted by evidence to the contrary (e.g. showing a document to be forged).

For this purpose, Member States will provide examples of the various types of administrative documents, on the basis of a version of list A. Specimens of the various documents will be reproduced in a joint handbook for the application of the Dublin Convention. This will make for greater efficiency and help the authorities to identify any false documents produced by asylum-seekers. Some of the items of proof in list A constitute the best possible instruments to be used for the application of Articles 4 and 5(1), 5(2), 5(3) and 5(4).

2.List B

List B contains indicative evidence the probative value of which in determining responsibility for examining an asylum application will be weighed up on a case-by-case basis.

These indications can be very useful in practice. They cannot, however, irrespective of their number, constitute items of proof of the kind laid down in list A, in order to determine the responsibility of a Member State.

While not proof, such items can nonetheless determine towards which Member State the search for the State responsible within the meaning of the Convention may justifiably be directed.

(Decision 1/97 of the Committee: Article 25)

Consequences as to determination of responsibility

1.The Member State in question shall consult its various records to determine whether its responsibility is involved.

2.Where more than one Member State is responsible, the Member State which first receives an application for asylum shall ascertain which has the greater responsibility under the Convention, in accordance with the principle laid down in Article 3(2) thereof whereby criteria for responsibility apply in the order in which they appear.

3.This approach should prevent asylum-seekers being passed successively from one State to another, complicating procedures and creating delay.

4.In particular, where an asylum-seeker passes through several Member States before submitting an application in the last one, the State applied to must not simply assume that responsibility lies with the State through which the applicant last passed.

5.Where there are specific reasons to believe that more than one State may be responsible, it is for the State in which the application has been submitted to attempt to ascertain which of the States in question is required to examine the asylum application, having regard to the order of criteria for determining responsibility laid down in the Convention.

(Decision 1/97 of the Committee: Article 26)

Acceptance of responsibility on the basis of a declaration by the asylum applicant

Without prejudice to the provisions of this Chapter concerning means of proof, responsibility for examining an application for asylum may in individual cases be accepted on the basis of a consistent, sufficiently detailed and verifiable declaration by the asylum applicant.

(Decision 1/97 of the Committee: Article 27)

C - LIST A

MEANS OF PROOF

I.Process of determining the State responsible for examining an application for asylum

1.Legal residence in a Member State of a family member recognized as having refugee status (Article 4)

Probative evidence

–written confirmation of the information by the other Member State;

–extracts from registers;

–residence permits issued to the individual with refugee status;

–evidence that the persons are related, if available;

–consent of the persons concerned.

2.Valid residence permits (Article 5(1) and (3)) or residence permits which expired less than 2 years previously [and date of entry into force] (Article 5(4))

Probative evidence

–residence permit;

–extracts from the register of aliens or similar registers;

–reports/confirmation of information by the Member State which issued the residence permit.

3.Valid visas (Article 5(2) and (3)) and visas which expired less than 6 months previously [and date of entry into force] (Article 5(4))

Probative evidence

–visa issued (valid or expired, as appropriate);

–extracts from the register of aliens or similar registers;

–reports/confirmation by the Member State which issued the visa.

4.Illegal entry (first paragraph of Article 6) and legal entry at an external frontier (Article 7(1))

Probative evidence

–entry stamp in a forged or falsified passport;

–exit stamp from a country bordering on a Member State, bearing in mind the itinerary taken by the asylum-seeker and the date the frontier was crossed;

–tickets conclusively establishing entry at an external frontier;

–entry stamp or similar endorsement in passport.

5.Departure from the territory of the Member States (Article 3(7))

Probative evidence

–exit stamp;

–extracts from third-country registers (substantiating residence);

–tickets conclusively establishing entry at an external frontier;

–report/confirmation by the Member State from which the asylum-seeker left the territory of the Member States;

–stamp of third country bordering on a Member State, bearing in mind the itinerary taken by the asylum-seeker and the date the frontier was crossed.

6.Residence in the Member State of application for at least six months prior to application (Article 6(2))

Probative evidence

Official evidence showing, in accordance with national rules, that the alien was resident in the Member State for at least six months before submitting an application.

7.Time of application for asylum (Article 8)

Probative evidence

–form submitted by the asylum-seeker;

–official report drawn up by the authorities;

–fingerprints taken in connection with an asylum application;

–extracts from relevant registers and files;

–written report by the authorities attesting that an application has been made.

II.Obligation on the Member State responsible for examining the application for asylum to re-admit or take back the asylum seeker

1.Procedure where an application for asylum is under examination or was lodged previously (Article 10(1)(c), (d) and (e))

Probative evidence

–form completed by the asylum-seeker;

–official report drawn up by the authorities;

–fingerprints taken in connection with an asylum application;

–extracts from relevant registers and files;

–written report by the authorities attesting that an application has been made.

2.Departure from the territory of the Member States (Article 10(3))

Probative evidence

–exit stamp;

–extracts from third-country registers (substantiating residence);

–exit stamp from a third country bordering on a Member State, bearing in mind the itinerary taken by the asylum-seeker and the date on which the frontier was crossed;

–written proof from the authorities that the alien has actually been expelled.

3.Expulsion from the territory of the Member States (Article 10(4))

Probative evidence

–written proof from the authorities that the alien has actually been expelled;

–exit stamp;

–confirmation of the information regarding expulsion by the third country.

(Decision 1/97 of the Committee: Annex III)

D - LIST B

INDICATIVE EVIDENCE

I. Process of determining the State responsible for examining an application for asylum

1.Legal residence in a Member State of a family member recognized as having refugee status (Article 4)

Indicative evidence [4]

–information from the asylum applicant;

–reports/confirmation of information by international organizations, such as UNHCR.

2.Valid residence permits (Article 5(1) and (3)) or residence permits which expired less than 2 years previously [and date of entry into force] (Article 5(4))

Indicative evidence

–declaration by the asylum applicant;

–reports/confirmation of information by international organizations, such as UNHCR;

–reports/confirmation of information by the Member State which did not issue the residence permit;

–reports/confirmation of information by family members, travelling companions, etc.

3.Valid visas (Article 5(2) and (3)) and visas which expired less than 6 months previously [and date of entry into force] (Article 5(4))

Indicative evidence

–declaration by the asylum applicant;

–reports/confirmation of information by international organizations, such as UNHCR;

–reports/confirmation of information by the Member State which did not issue the residence permit;

–reports/confirmation of information by family members, travelling companions, etc.

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4 This indicative evidence must always be followed by an item of probative evidence as defined in list A.

4.Illegal entry (first paragraph of Article 6) and legal entry at an external frontier (Article 7(1))

Indicative evidence
–declarations by the asylum applicant;

–reports/confirmation of information by international organizations, such as UNHCR;

–reports/confirmation of information by another Member State or a third country;

–reports/confirmation of information by family members, travelling companions, etc.;

–fingerprints, except in cases where the authorities decided to take fingerprints when the alien crossed the external frontier.
In such cases, they constitute probative evidence as defined in list A;

–tickets;

–hotel bills;

–entry cards for public or private institutions in the Member States;

–appointment cards for doctors, dentists, etc.;

–information showing that the asylum applicant has used the services of a courier or a travel agency;

–etc.

5.Departure from the territory of the Member States (Article 3(7))

Indicative evidence

–declarations by the asylum applicant;

–reports/confirmation of information by international organizations, such as UNHCR;

–reports/confirmation of information by another Member State;

–re Article 3(7) and Article 10(3): exit stamp where the asylum applicant concerned has left the territory of the Member States for a period of at least 3 months;

–reports/confirmation of information by family members, travelling companions, etc.;

–fingerprints, except in cases where the authorities decided to take fingerprints when the alien crossed the external frontier.
In such cases, they constitute probative evidence as defined in list A;

–tickets;

–hotel bills;

–appointment cards for doctors, dentists, etc.;

–information showing that the asylum applicant has used the services of a courier or a travel agency;

–etc.

6.Residence in the Member State of application for at least 6 months prior to application (second sub-paragraph of Article 6)

Indicative evidence

–declarations by the asylum applicant;

–reports/confirmation of information by international organizations, such as UNHCR;

–reports/confirmation of information by family members, travelling companions, etc.;

–declaration issued to permitted aliens;

–fingerprints, except in cases where the authorities decided to take fingerprints when the alien crossed the external frontier.
In such cases, they constitute probative evidence as defined in list A;

–tickets;

–hotel bills;

–appointment cards for doctors, dentists, etc.;

–information showing that the asylum applicant has used the services of a courier or a travel agency;

–etc.

7.Time of application for asylum (Article 8)

Indicative evidence

–declarations by the asylum applicant;

–reports/confirmation of information by international organizations, such as UNHCR;

–reports/confirmation of information by family members, travelling companions, etc.;

–reports/confirmation by another Member State.

II.Obligation on the Member State responsible for examining the application for asylum to re-admit or take back the asylum seeker

1.Procedure where an application for asylum is under examination or was lodged previously (Article 10(1)(c), (d) and (e))

Indicative evidence

–declarations by the asylum applicant;

–reports/confirmation of information by international organizations, such as UNHCR;

–reports/confirmation of information by another Member State.

2.Departure from the territory of the Member States (Article 10(3))

Indicative evidence

–declarations by the asylum applicant;

–reports/confirmation of information by international organizations, such as UNHCR;

–reports/confirmation of information by another Member State;

–exit stamp where the asylum applicant concerned has left the territory of the Member States for a period of at least three months;

–reports/confirmation of information by family members, travelling companions, etc.;

–fingerprints, except in cases where the authorities decided to take fingerprints when the alien crossed the external frontier.
In such cases, they constitute probative evidence as defined in list A;

–tickets;

–hotel bills;

–appointment cards for doctors, dentists, etc.;

–information showing that the asylum applicant has used the services of a courier or a travel agency;

–etc.

3.Distance from the territory of Member States (Article 10(4))

Indicative evidence

–declarations by the asylum applicant;

–reports/confirmation of information by international organizations, such as UNHCR;

–exit stamp where the asylum applicant concerned has left the territory of the Member States for a period of at least three months;

–reports/confirmation of information by family members, travelling companions, etc.;

–fingerprints, except in cases where the authorities decided to take fingerprints when the alien crossed the external frontier.
In such cases, they constitute probative evidence as defined in list A;

–tickets;

–hotel bills

–appointment cards for doctors, dentists, etc.;

–information showing that the asylum applicant has used the services of a courier or a travel agency;

–etc.

(Decision 1/97 of the Committee: Annex III)

E - SPECIMENS OF THE ADMINISTRATIVE DOCUMENTS OF THE MEMBER STATES ON THE BASIS OF LIST A

BELGIUM

DENMARK

GERMANY

GREECE

SPAIN

FRANCE

IRELAND

ITALY

LUXEMBOURG

NETHERLANDS

AUSTRIA

PORTUGAL

FINLAND

SWEDEN

UNITED KINGDOM

SECTION III
ANNEXES

ANNEX I

STANDARD FORM FOR DETERMINING THE STATE RESPONSIBLE FOR EXAMINING AN APPLICATION FOR ASYLUM (Decision 1/97 of the Committee: Annex I)

File number

Personal particulars of applicant

1.Surname (*)
Maiden name

2.Forename(s)

3.Does the applicant use/has he/she used other names?

What are/were they?

4.Date of birth

5.Place of birth
District/region
Country

6.Nationality (-ies)
(indicate all)
(a) current
(b)previous
(c)none/stateless

7.Sex

8.Name of father

9.Name of mother

10.Marital status

11.Address
–current

–in country of origin

12.Language(s) of origin

□ Yes□ No

□ Male□ Female

□ Single□ Married□ Widowed□ Divorced

(*) In block capitals

Personal particulars of family members

13. Spouse:Surname (*), maiden name, forename(s), sex, date of birth, place of birth, place of residence (If the spouse is seeking asylum, a separate form should be completed)

14.Children:Surname (*), forename(s), sex, date of birth, place of birth, place of residence
(indicate all children; a separate form should be completed for children over 16 years of age if asylum is sought)
(a)
(b)
(c)
(d)
(e)

15. Place and date of the application for asylum in the country of residence

Previous asylum procedures

16.Has the asylum applicant ever previously applied for asylum or recognition of refugee status in the country of residence or in another country?

□ Yes□ No
When and where?

Was any decision taken on the application?

□ No□ Not known□ Yes, refused

When was the decision taken?

Identity papers

17.National passport
Number
Issued on
By
Valid until

□ Yes□ No

18.Document replacing passport
Number
Issued on
By
Valid until

□ Yes□ No

19.Other document
Number
Issued on
By
Valid until

□ Yes□ No

20.In the absence of documents:
(specify whether they may have contained a valid visa or residence permit and, if so, indicate the issuing authority and date of issue as well as the period of validity)

□ Departed□ Lost□ Stolen
without
documents
(When, where?
)
□ Other reasons
(Which?
)<u>Residence documents/visas</u>

21.Does the asylum applicant possess a residence document/visa for the country of residence?

□ Yes□ No
□ Residence permit□ Entry visa
□ Transit visa
Type
Issued on
By
Valid until

22.Does the asylum applicant possess a residence document/visa for another EU Member State?

□ Yes□ No
Which State?

Type

□ Residence permit□ Entry visa
□ Transit visa
Issued on
By
Valid until

23.Does the asylum applicant possess a residence document/visa for a non-member country?

□ Yes□ No
Which country?

Type

□ Residence permit□ Entry visa
□ Transit visa
Issued on
By
Valid until

Travel route

24.Country in which the journey was begun
(country of origin or of provenance)

–Route followed from country where journey was begun to point of entry into country in which asylum is requested

–Dates and times of travel

–Crossed border on

=At the authorized crossing point, or

=Avoided border controls (entered illegally)
at

=Means of transport used

- □ Public transport (what form?)
- □ Own vehicle
- □ Other means (how?)

25.Did the asylum applicant enter via another European Union Member State?

□ No
□ Yes
–Which was the first
EU Member State entered?

–Crossed border at authorized crossing point, or

–Avoided border controls at

–When?

Residence in another EU Member State

26.Residence in another EU Member State or States after leaving country in which journey was begun (country of origin/provenance)

- □ No
- □ Yes

–In which State or States?
–From - to
–Place/exact address

–Residence was
–Period of validity of residence permit
–Purpose of residence

□ Authorized□ Unauthorized

<u>Residence in third countries</u>
<u>(non-members of EU)</u>

27.Residence in third country or countries after leaving country in which journey was begun (country of origin/provenance)

□ No
□ Yes
–In which third country or countries?
–From - to
–Place/exact address

□ Hotel/boarding house□ Private accommodation
□ Camp□ Other

(Where?)
–Residence was

□ Authorized□ Unauthorized
–Period of validity of residence permit

–Purpose of residence

–Was the asylum applicant in danger of being expelled/removed?

□ Yes□ No
–To which country?

–Why?

–Reasons for continuing journey

Particulars of family members living in EU Member States or in third countries

28.(a)Is any member of the family recognized in a Member State or in a third country as having refugee status and as being legally resident there?

□ Yes□ No
–Name of family member

–State

–Address in that State

(b)Do any of those concerned object to the examination of the application for asylum in that Member State or third country?

□ Yes□ No

ANNEX II

SPECIMEN LAISSEZ-PASSER FOR TRANSFER OF APPLICANTS
(Decision 1/97 of the Committee: Annex II)

LAISSEZ-PASSER

Reference No (*)

Issued pursuant to Articles 11 and 13 of the Dublin Convention of 15 June 1990 determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities.

Valid only for transfer from ... [5] to ... [6], with the asylum applicant required to present him/herself at ... [7] by ... [8].

Issued at

NAME:

FORENAMES:

PLACE AND DATE OF BIRTH:

NATIONALITY:

Date of issue:

PHOTO

For the Ministry for the Interior:
SEAL

The bearer of this laissez-passer has been identified by the authorities ... [9] [10]

This document is issued pursuant to Articles 11 and 13 of the Dublin Convention only and cannot under any circumstances be regarded as equivalent to a travel document permitting the external frontier to be crossed or to a document proving the individual's identity.

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5 Member State from which transferred.
6 Member State to which transferred.
7 Place at which the asylum applicant has to present him/herself upon arrival in the second Member State.
8 Deadline by which the asylum applicant has to present him/herself upon arrival in the second Member State.
9 On the basis of the following travel or identity documents presented to the authorities.
10 On the basis of a statement by the asylum applicant or of documents other than a travel or identity document.
(*)Reference number to be given by the country from which the transfer takes place.

ANNEX III

TABLES FOR THE THREE-MONTHLY EXCHANGES OF STATISTICAL INFORMATION

(Decision 1/97 of the Committee: Annex IV)

Statistical data on the application of the Dublin Convention

Application of the Dublin Convention during the three-month period	Total number of transfer requests submitted	Percentage of total number of asylum applica-tions (II/I)	Number of transfer requests accepted	Percentage of requests made (IV/II)	Number of transfer requests rejected	Percentage of requests submitted	Number of transfer requests pending	Percentage of requests submitted (VIII/II)	Number of asylum applicants actually transferred	Percentage of accepted requests (X/IV)
I	II	III	IV	V	VI	VII	VIII	IX	X	XI
Belgium: total number of asylum applications										
by Belgium to other Member States										
by Member States to Belgium										
Denmark: total number of asylum applications										
by Denmark to other Member States										
by Member States to Denmark										
Germany: total number of asylum applications										
by Germany to other Member States										
by Member States to Germany										
Greece: total number of asylum applications										
by Greece to other Member States										
by Member States to Greece										
Spain: total number of asylum applications										
by Spain to other Member States										
by Member States to Spain										
France: total number of asylum applications										
by France to other Member States										
by Member States to France										
Ireland: total number of asylum applications										
by Ireland to other Member States										
by Member States to Ireland										
Italy: total number of asylum applications										
by Italy to other Member States										
by Member States to Italy										
Luxembourg: total number of asylum applications										
by Luxembourg to other Member States										
by Member States to Luxembourg										
Netherlands: total number of asylum applications										
by the Netherlands to other Member States										
by Member States to the Netherlands										
Austria: total number of asylum applications										
by Austria to other Member States										
by Member States to Austria										
Portugal: total number of asylum applications										
by Portugal to other Member States										
by Member States to Portugal										

Finland: total number of asylum applications										
by Finland to other Member States										
by Member States to Finland										
Sweden: total number of asylum applications										
by Sweden to other Member States										
by Member States to Sweden										
United Kingdom: total number of asylum applications										
by the United Kingdom to other Member States										
by Member States to the United Kingdom										

Table 1: requests for transfer (of persons) by [Member State] within (three-month period) to other Member States														
Transfer requests to:	A	B	D	DK	E	F	FIN	EL	I	IRL	L	NL	P	S
1.submitted to														
2.accepted														
3.postponement of transfer after acceptance														
4.refused														
5.pending														
6.transfers														

Notes on Table 1:

heading 1 (submitted):all transfer requests addressed by the Member State to the other Member States.
heading 2 (accepted):all transfer requests submitted under heading 1 which received a positive response.
heading 3 (postponement of transfer following acceptance):all transfer requests submitted under heading 1 for which the requesting Member State, following acceptance as indicated in heading 2, has asked the accepting Member State for postponement of the transfer pursuant to an appeal with suspensory effect, made by the asylum applicant to the court and in exceptional circumstances (sickness, pregnancy, etc.).
heading 4 (refused):all transfer requests submitted under heading 1 which received a negative reaction.
heading 5 (pending):all transfer requests submitted under heading 1 which have not yet been examined finally.
heading 6 (transfers):all transfer requests being carried out.

Table 2: requests for transfers of (persons) to [Member State] within (three-month period) by other Member States

Transfer requests by:	A	B	D	DK	E	F	FIN	EL	I	IRL	L	NL	P	S
1.submitted to														
2.accepted														
3.postponement of transfer after acceptance														
4.refused														
5.pending														
6.transfers														

Notes on Table 2:

heading 1 (submitted):all transfer requests addressed by the Member State to the other Member States.
heading 2 (accepted):all transfer requests submitted under heading 1 which received a positive response.
heading 3 (postponement of transfer following acceptance):all transfer requests submitted under heading 1 for which the requesting Member State, following acceptance as indicated in heading 2, has asked the accepting Member State for postponement of the transfer pursuant to an appeal with suspensory effect, made by the asylum applicant to the court and in exceptional circumstances (sickness, pregnancy, etc.).
heading 4 (refused):all transfer requests submitted under heading 1 which received a negative reaction.
heading 5 (pending):all transfer requests submitted under heading 1 which have not yet been examined finally
heading 6 (transfers):all transfer requests being carried out.

Table 3: average time limits for replies to transfer requests (three-month period)

Member State	A	B	D	DK	E	F	FIN	EL	I	IRL	L	NL	P	S
Requests for charge to be taken of an applicant made by [Member State] to:														
Requests for charge to be taken of an applicant made to [Member State] by:														
Requests for an applicant to be taken back by [Member State] made to:														
Requests for an applicant to be taken back made to [Member State] by:														

Table 4: total number of asylum applications (three-month period)

Member State	A	B	D	DK	E	F	FIN	EL	I	IRL	L	NL	P	S
number of asylum applications														

SECTION IV

SUMMARY OF NATIONAL IMPLEMENTING MEASURES

BELGIUM

DENMARK

GERMANY

GREECE

SPAIN

FRANCE

IRELAND

ITALY

LUXEMBOURG

NETHERLANDS

AUSTRIA

PORTUGAL

FINLAND

SWEDEN

UNITED KINGDOM

SECTION V

EXAMPLES OF NATIONAL LEGAL DECISIONS