GROUPE AD HOC IMMIGRATION

AD HOC GROUP IMMIGRATION

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(OR. f)

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Subject: Compilation of texts on European practice with respect to asylum
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Delegations will find attached the above compilation as finalized following the discussions of the ad hoc Group on Immigration at its meeting on 13 and 14 May 1993.

COMPILATION OF TEXTS ON EUROPEAN PRACTICE

WITH RESPECT TO ASYLUM

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Brussels, 27 January 1993

The compilation comprises the texts (decisions and conclusions) adopted by the Ministers on the harmonization of legislation and procedures with respect to asylum. It also gives details of current progress in the Member States with procedures for the ratification of the instruments adopted.

PART I

Dublin Convention

and measures for its implementation

CONVENTION

determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities

HIS MAJESTY THE KING OF THE BELGIANS,

HER MAJESTY THE QUEEN OF DENMARK,

THE PRESIDENT OF THE FEDERAL REPUBLIC OF GERMANY,

THE PRESIDENT OF THE HELLENIC REPUBLIC,

HIS MAJESTY THE KING OF SPAIN,

THE PRESIDENT OF THE FRENCH REPUBLIC,

THE PRESIDENT OF IRELAND,

THE PRESIDENT OF THE ITALIAN REPUBLIC,

HIS ROYAL HIGHNESS THE GRAND DUKE OF LUXEMBOURG,

HER MAJESTY THE QUEEN OF THE NETHERLANDS,

THE PRESIDENT OF THE PORTUGUESE REPUBLIC,

HER MAJESTY THE QUEEN OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

HAVING REGARD to the objective, fixed by the European Council meeting in Strasbourg on 8 and 9 December 1989, of the harmonization of their asylum policies;

DETERMINED, in keeping with their common humanitarian tradition, to guarantee adequate protection to refugees in accordance with the terms of the Geneva Convention of 28 July 1951, as amended by the New York Protocol of 31 January 1967 relating to the Status of Refugees, hereinafter referred to as the "Geneva Convention" and the "New York Protocol" respectively;

CONSIDERING the joint objective of an area without internal frontiers in which the free movement of persons shall, in particular, be ensured, in accordance with the provisions of the Treaty establishing the European Economic Community, as amended by the Single European Act;

AWARE of the need, in pursuit of this objective, to take measures to avoid any situations arising, with the result that applicants for asylum are left in doubt for too long as regards the likely outcome of their applications and concerned to provide all applicants for asylum with a guarantee that their applications will be examined by one of the Member States and to ensure that applicants for asylum are not referred successively from one Member State to another without any of these States acknowledging itself to be competent to examine the application for asylum;

DESIRING to continue the dialogue with the United Nations High Commissioner for Refugees in order to achieve the above objectives;

DETERMINED to co-operate closely in the application of this Convention through various means, including exchanges of information,

HAVE DECIDED TO CONCLUDE THIS CONVENTION AND TO THIS END HAVE DESIGNATED AS THEIR PLENIPOTENTIARIES:

HIS MAJESTY THE KING OF THE BELGIANS,

Melchior WATHELET

Deputy Prime Minister, Minister for Justice, Small and Medium-sized Businesses and the Self-Employed

HER MAJESTY THE QUEEN OF DENMARK,

THE PRESIDENT OF THE FEDERAL REPUBLIC OF GERMANY,

Dr Helmut RÜCKRIEGEL

Ambassador of the Federal Republic of Germany
at Dublin

Wolfgang SCHÄUBLE

Federal Minister for the Interior

THE PRESIDENT OF THE HELLENIC REPUBLIC,

Ioannis VASSILIADES

Minister for Public Order

HIS MAJESTY THE KING OF SPAIN,

José Luis CORCUERA

Minister for the Interior

THE PRESIDENT OF THE FRENCH REPUBLIC,

Pierre JOXE

Minister for the Interior

THE PRESIDENT OF IRELAND,

Ray BURKE

Minister for Justice and Minister for Communications

THE PRESIDENT OF THE ITALIAN REPUBLIC,

Antonio GAVA

Minister for the Interior

HIS ROYAL HIGHNESS THE GRAND DUKE OF LUXEMBOURG,

Marc FISCHBACH

Minister for Education, Minister for Justice,
Minister for the Civil Service

HER MAJESTY THE QUEEN OF THE NETHERLANDS,

Ernst Maurits Henricus HIRSCH BALLIN

Minister for Justice and Minister for matters
concerning the Netherlands Antilles and Aruba

THE PRESIDENT OF THE PORTUGUESE REPUBLIC,

Manuel PEREIRA
Minister for the Interior

HER MAJESTY THE QUEEN OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

David WADDINGTON
Secretary of State for the Home Department (Home Secretary)

Nicholas Maxted FENN, KCMG
Ambassador of the United Kingdom of Great Britain and Northern Ireland at Dublin

WHO, having exchanged their Full Powers, found in good and due form,

HAVE AGREED AS FOLLOWS:

ARTICLE 1

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).

ARTICLE 2

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 co-operating with the services of the United Nations High Commissioner for Refugees in applying these instruments.

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.

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 there lodges an application for asylum 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.

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.

(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.

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.

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.

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.

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 ore 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.

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.

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.

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.

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.

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 enter.

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.

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.

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

ARTICLE 12

Where an application for asylum is lodged with the competent authorities of a Member State by an applicant who is on 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 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.

ARTICLE 13

1. 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 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.

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.

ARTICLE 15

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.

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.

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 State, 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.

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 State 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.

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.

ARTICLE 17

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 Treaty 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.

ARTICLE 18

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.

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.

ARTICLE 20

This Convention shall not be the subject of any reservations.

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.

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.

EN FE DE LO CUAL, los plenipotenciarios abajo firmantes suscriben el presente Convenio.

TIL BEKRÆFTELSE HERAF har undertegnede befuldmægtigede underskrevet denne konvention.

ZU URKUND DESSEN haben die unterzeichneten Bevollmächtigten ihre Unterschriften unter dieses Übereinkommen gesetzt.

ΣΕ ΠΙΣΤΩΣΗ ΤΩΝ ΑΝΩΤΕΡΩ, οι κάτωθι πληρεξούσιοι υπέγραψαν την παρούσα σύμβαση.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries have hereunto set their hands.

EN FOI DE QUOI, les plénipotentiaires soussignés ont apposé leurs signatures au bas de la présente convention.

DA FHIANÚ SIN, chuir na Lánchumhachtaigh thíos-sínithe a lámh leis an gCoinbhinsiún seo.

IN FEDE DI CHE, i plenipotenziari sottoscritti hanno apposto le loro firme in calce alla presente convenzione.

TEN BLIJKE WAARVAN de ondergetekende gevolmachtigden deze overeenkomst hebben ondertekend.

EM FÉ DO QUE os plenipotenciários abaixo-assinados apuseram as suas assinaturas no final da presente Convenção.

francesa, griega, irlandesa, italiana, neerlandesa y portuguesa, dando fe asimismo los textos redactados en cada una de dichas lenguas depositados en los archivos del Gobierno de Irlanda que transmitirá una copia certificada conforme a cada uno de los Estados miembros.

UDFÆRDIGET i Dublin, den femtende juni nitten hundrede og halvfems i ét eksemplar på dansk, engelsk, fransk, græsk, irsk, italiensk, nederlandsk, portugisisk, spansk og tysk, hvilke tekster har samme gyldighed og deponeres i arkiverne hos Irlands regering, som sender en bekræftet kopi til hver af de andre medlemsstater.

GESCHEHEN zu Dublin am fünfzehnten Juni neunzehnhundertneunzig, in einer Urschrift in dänischer, deutscher, englischer, französischer, griechischer, irischer, italienischer, niederländischer, portugiesischer und spanischer Sprache, wobei jeder Wortlaut gleichermassen verbindlich ist; sie wird im Archiv der Regierung von Irland hinterlegt, die den übrigen Mitgliedstaaten jeweils eine beglaubigte Abschrift übermittelt.

ΕΓΙΝΕ στο Δουβλίνο στις δέκα πέντε Ιουνίου χίλια εννιακόσια ενενήντα, σε ένα μόνο αντίτυπο στην αγγλική, γαλλική, γερμανική, δανική, ελληνική, ιρλανδική, ισπανική, ιταλική, ολλανδική και πορτογαλική γλώσσα. Τα κείμενα στις γλώσσες αυτές είναι εξίσου αυθεντικά και είναι κατατεθειμένα στα αρχεία της κυβέρνησης της Ιρλανδίας η οποία θα διαβιβάσει επικυρωμένο αντίγραφο σε κάθε άλλο κράτος μέλος.

DONE at Dublin this fifteenth day of June in the year one thousand nine hundred and ninety, in a single original, in the Danish, Dutch, English, French, German, Greek, Irish, Italian, Portuguese and Spanish languages, the texts drawn up in each of these languages being equally authentic and being deposited in the archives of the Government of Ireland which shall transmit a certified copy to each of the other Member States.

FAIT à Dublin, le quinze juin mil neuf cent quatre-vingt-dix, en un exemplaire unique, en langues allemande, anglaise, danoise, espagnole, française, grecque, irlandaise, italienne, néerlandaise et portugaise, les textes établis dans chacune de ces langues faisant également foi et étant déposés dans les archives du gouvernement d'Irlande qui transmettra une copie certifiée conforme à chacun des autres Etats membres.

ARNA DHÉANAMH i mBaile Átha Cliath ar an gcúigiú lá déag de Mheitheamh sa bhliain míle naoi gcéad nócha, i scríbhinn bhunaigh amháin sa Bhéarla, sa Danmhairgis, sa Fhraincis, sa Ghaeilge, sa Ghearmáinis, sa Ghréigis, san Iodáilis, san Ollainnis, sa Phortaingéilis agus sa Spáinnis agus cemhdaras ag na téacsanna i ngach ceann de na teangacha sin; déanfar fad a thaiscfear i gcartlann Rialtas na hÉireann agus cuirfidh an Rialtas sin cóip cheimhnithe chuig gach ceann de na Ballstáit eile.

FATTO a Dublino, addì quindici giugno millenovecentonovanta, in esemplare unico, nelle lingue danese, francese, greca, inglese, irlandese, italiana, olandese, portoghese, spagnola e tedesca, il cui testo in ciascuna di queste lingue fa ugualmente fede ed è depositato negli archivi del Governo d'Irlanda che provvederà a rimetterne copia certificata conforme a ciascuno degli altri Stati membri.

GEDAAN te Dublin, de vijftiende juni negentienhonderd negentig, in één exemplaar in de Deense, de Duitse, de Engelse, de Spaanse, de Franse, de Griekse, de Ierse, de Italiaanse, de Nederlandse en de Portugese taal, zijnde de teksten in elk van deze talen gelijkelijk authentiek en nedergelegd in het archief van de Regering van Ierland, die een voor eensluidend gewaarmerkt afschrift daarvan toezendt aan alle overige Lid-Staten.

FEITO em Dublin, em quinze de Junho de mil novecentos e noventa, num único exemplar, nas línguas alemã, dinamarquesa, espanhola, francesa, grega, inglesa, irlandesa, italiana, neerlandesa e portuguesa, fazendo fé qualquer dos textos, que serão depositados nos arquivos do Governo da Irlanda, que enviará uma cópia autenticada a cada um dos outros Estados-membros.

Declarations in the minutes of the Conference of Immigration Ministers of the Member States of the European Communities (Dublin, 15 June 1990)

The Ministers took note of the text in the Draft Convention determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities.

The Ministers noted:

- that eleven Member States were in a position to sign the Convention;

- a statement by the Danish Minister to the effect that his country was unable to sign the Convention for the time being, and that he intended to continue in his attempts to ensure that Denmark would also be in a position to sign the Convention.

The Ministers of the eleven other Member States decided, therefore, to proceed with the signing of the Convention, on the understanding that if Denmark had not signed the Convention by 7 December 1990 the majority would then sign a convention to which the countries concerned would be the contracting parties.

The Ministers agreed to enter the following declarations in the Conference minutes:

1. The parties hereby declare that in order to ensure that applicants for asylum are given adequate guarantees they will keep open the option of extending the co-operation provided for in this Convention to other States by allowing them to subscribe, by means of appropriate instruments, to commitments identical to those laid down in this Convention.

2. The Member States take the view that it is not necessary to supplement Article 15(6) of the Convention by providing that only data which have been applied for in a permitted manner and in good faith may be communicated because they consider this goes without saying and that therefore no provisions to cover the point are needed.

3. The Member States agree to submit an annual report to the Committee on the checks they carry out on the appropriate use of the information referred to in Article 15.

4. The Member States note that other possibilities provided for under international law are not excluded should it prove impossible to reach an agreement with regard to the revision of the Convention pursuant to the provisions of Article 17(2).

5. The Member States consider that where this Convention is suspended at the initiative of one of them, in accordance with Article 17, the Convention shall continue to apply as between the other Member States.

6. The Member States consider that the draft Convention on the crossing of the external borders of the Member States of the European Communities is closely linked to other instruments necessary for the realization of Article 8a of the Treaty establishing the European Economic Community, and, in particular, to the Convention determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities. The Member States underline the need to intensify the work on the

abovementioned draft with a view to finishing work before the end of 1990. The entry into force of the Convention on the crossing of the external borders of Member States should be brought about as soon as possible after the Convention on asylum comes into force.

7. The Federal Republic of Germany declares that the German Democratic Republic is not a foreign country in relation to the Federal Republic of Germany.

   With reference to the Declaration by the Government of the Federal Republic of Germany on the definition of the expression "German national" annexed to the Treaty establishing the European Economic Community of 25 March 1957, the Federal Republic of Germany would point out that this Convention is not applicable to Germans within the meaning of the abovementioned Declaration.

8. The Netherlands is acting on the principle that, as this is a matter concerning all twelve countries, the approval procedure will not commence in the capitals until Denmark has also signed the Convention. In any event, the Netherlands will not start this procedure until Denmark has signed.

9. The Netherlands declares that, as regards the definition of the concept of "application for asylum", the use of the term "seeks from a Member State protection" means that the person involved is an alien who, when submitting an application for asylum, claims refugee status and in that capacity requests permission to stay in the Member State in question.

10. The Kingdom of Spain declares that if, in accordance with the provisions of Article 19 of the Convention, the United Kingdom should decide to extend the applicability of the Convention to Gibraltar, such application will be without prejudice to the position of Spain in the dispute with the United Kingdom concerning sovereignty over the isthmus.

The original of these minutes, as signed by the Conference President and Secretary, will be deposited, along with the Convention, with the Irish Government.

A copy of these minutes will be sent to the signatory States.

Standard form for determining
the State responsible for examining an application for asylum*

Photo

Personal particulars

1. Family name .....
   Maiden name .....
2. Other names .....
3. Does the applicant use/has he/she used other names? ☐ Yes ☐ No
   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 ☐ Male ☐ Female
8. Name of father .....
9. Name of mother .....
10. Marital status ☐ Single ☐ Married ☐ Widowed ☐ Divorced
11. Current address .....
    .....
12. Last address in home country/country of origin .....
    .....
13. Spouse: family name, maiden name, other names, sex, date of birth, place of birth, place of residence (If the spouse is seeking asylum, a separate form should be completed)
    .....
    .....
14. Children: family name, other names, sex, date and 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 .....
    .....

* Provisional version

Identity papers

16. National passport ☐ Yes ☐ No
Number .....
Issued on .....
By .....
Valid until .....

17. Document replacing passport ☐ Yes ☐ No
Number .....
Issued on .....
By .....
Valid until .....

18. Other document ☐ Yes ☐ No
Number .....
Issued on .....
By .....
Valid until .....

19. 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 without documents ☐ Lost ☐ Stolen
(When, where? .....
.....
☐ Other reasons
(Which? .....
.....

Residence documents/visas

20. Does the asylum applicant possess a residence document/visa for the country of residence? ☐ Yes ☐ No
☐ Residence permit ☐ Visa
☐ Transit visa
Type .....
Issued on .....
By .....
Valid until .....

21. Does the asylum applicant possess a residence document visa for another EEC Member State? ☐ Yes ☐ No
Which State? .....
☐ Residence permit ☐ Visa
☐ Transit visa
Type .....
Issued on .....
By .....
Valid until .....

22. Does the asylum applicant possess a residence document visa for a non-member country? ☐ Yes ☐ No
Which country? .....
Type ☐ Residence permit ☐ Visa
☐ Transit visa
Issued on .....
By .....
Valid until .....

Travel routes

23. Departure from home country/country of origin on .....

by
- ☐ Public transport (what form? .....)
- ☐ Own vehicle
- ☐ Other means (how? .....)

24. Entry in country of residence on .....

by
- ☐ Public transport (what form? .....)
- ☐ Own vehicle
- ☐ Other means (how? .....)

Border post .....

Avoided border controls at .....

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

Which was the first Member State entered? .....
.....

by
- ☐ Public transport (what form? .....)
- ☐ Own vehicle
- ☐ Other means (how? .....)

Border post .....

Avoided border controls at .....

26. Travel route from point of departure from home country/ country of origin to point of entry into country of residence .....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....

Interim residence in other countries

27. Residence in another country after leaving home country/ country of origin
- ☐ Yes
- ☐ No

from - to .....

in .....

Residence was
- ☐ Authorized
- ☐ Unauthorized

Period of validity of permit .....

Purpose of residence .....
.....

Address in non-member country .....
.....

Accommodation in ☐ Hotel/boarding house ☐ Dwelling
☐ Camp
☐ Other (Where? .....)

Was the asylum applicant in danger of being expelled? ☐ Yes ☐ No

To which country? .....
Why? .....
Reasons for continuing journey .....

Previous asylum procedures

28. 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
☐ Yes, deferred ☐ Yes, accepted

When was the decision taken? .....

Details of previous residence in the European Community

29. Has the asylum applicant ever previously resided in the country of residence or in another EEC Member State? ☐ Yes ☐ No

If so, details of periods and places of residence .....
.....
.....
.....

Particulars of family members living in EEC Member States or in a third country

30. Relatives in:

(a) the country of residence or another EEC Member State ☐ Yes ☐ No

(b) another country which is not the country of origin ☐ Yes ☐ No

Where there are such family members, specify their names, addresses, family relationship and status (e.g. refugee, employed person, etc.) .....
.....

31. Has the asylum applicant been ordered to leave the territory of the country of residence or another Member State? ☐ Yes ☐ No

If so, via what places and routes is the journey to be effected? .....

When and by what authority was that decision taken? .....

o

o o

- Member State providing the information:

- Ministry/Ministries competent for determining responsibility for examining the asylum application in the Member State providing the information:

- Department:

- Contact in case of need:

  . Name:
  . Position:
  . Address:
  . Telephone no.:
  . Fax no.:

ANNEX

PROOF OR INTELLIGENCE
USED BY THE MEMBER STATE PROVIDING THE INFORMATION

[The contents of the Annex will be specified once the inventory of the means of proof used by each Member State has been drawn up.]

Implementation of the Convention determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities

(Lisbon, 11 and 12 June 1992)

(a) **Lodging an application for asylum**

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.

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.

(b) **Reaction to a request that charge be taken of an applicant (Article 11(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) must take the form of a written communication.

(c) Exceeding the eight-day period

(Article 13(1)(b))

1. Article 13(1)(b) of the Convention makes it very clear that Member States are obliged to respond to the application 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 Member State fails to react

   - within the eight-day period mentioned in paragraph 1

   - within the one-month period mentioned in paragraph 2

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

(d) Measures to expel an alien

(Article 10(4))

The Member State responsible for examining the application must provide proof that the alien has actually been expelled from the territory of the Twelve. 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.

(e) Departure from the territory of the Member States

(second subparagraph of Article 3(7))

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.

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 co-operation 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 that State.

(f) Exceptions where the applicant for asylum is in possession of a visa

(Article 5(2))

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.

The first exception (subparagraph (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.

The second exception (subparagraph (b)) arises from a situation in which an application is lodged in a 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.

The third exception (subparagraph (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.

(g) **Determination of Member State responsibility in the event of an applicant possessing several residence permits or visas (Article 5(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 Member State responsible does not arise in that the relevant information appears in the entry document produced by the applicant for asylum.

(h) **Determining the periods of time and actual entry into a State (first and second subparagraphs of Article 5(4))**

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.

In addition, checking the expiry date of residence permits and visas is not necessary if such information appears on the applicant for asylum's papers.

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 subparagraphs of paragraph 4.

(i) Irregular crossing of the border into a Member State

(Article 6)

Proof that an applicant for asylum has irregularly crossed the border into a Member State (Article 6(1)) must be examined after the list of means of proof has been drawn up.

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 (second 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 Member States concerned.

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.

(j) Formal rules for approval by the applicant for asylum

Approval must be given in writing.

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

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

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.

(k) Notification procedures

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.

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.

Where implementation of a decision determining responsibility is suspended, such suspension is notified so that the Member States are kept fully informed. It is extremely 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.

Calculation of periods of time in the context of the Dublin Convention

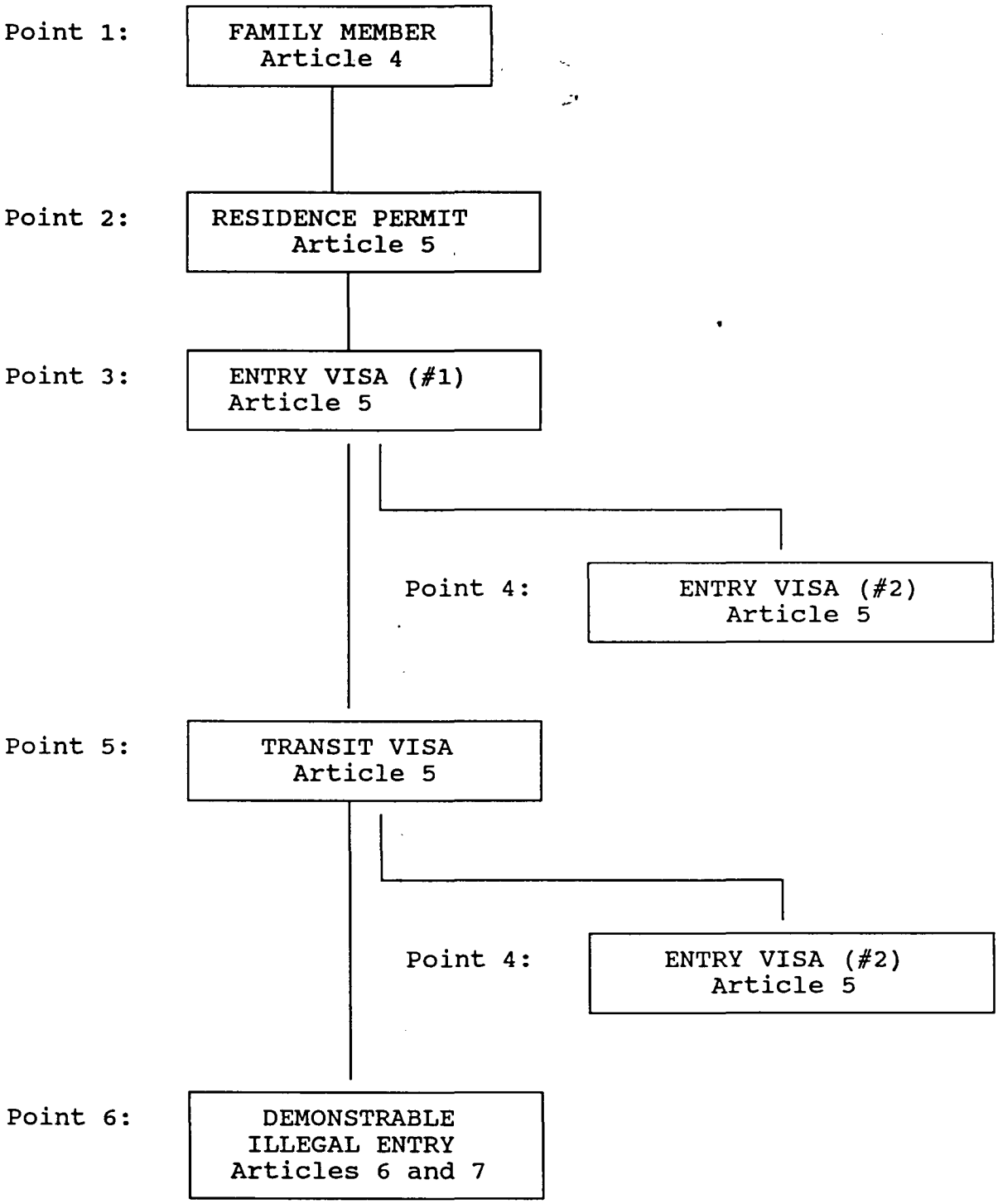
When determining the periods referred to in the Convention, Saturdays, Sundays and public holidays should be included in the calculations.

With particular reference to the periods mentioned in Article 11(4) and Article 13(1)(b):

- the period is to begin on the day following receipt of the application;

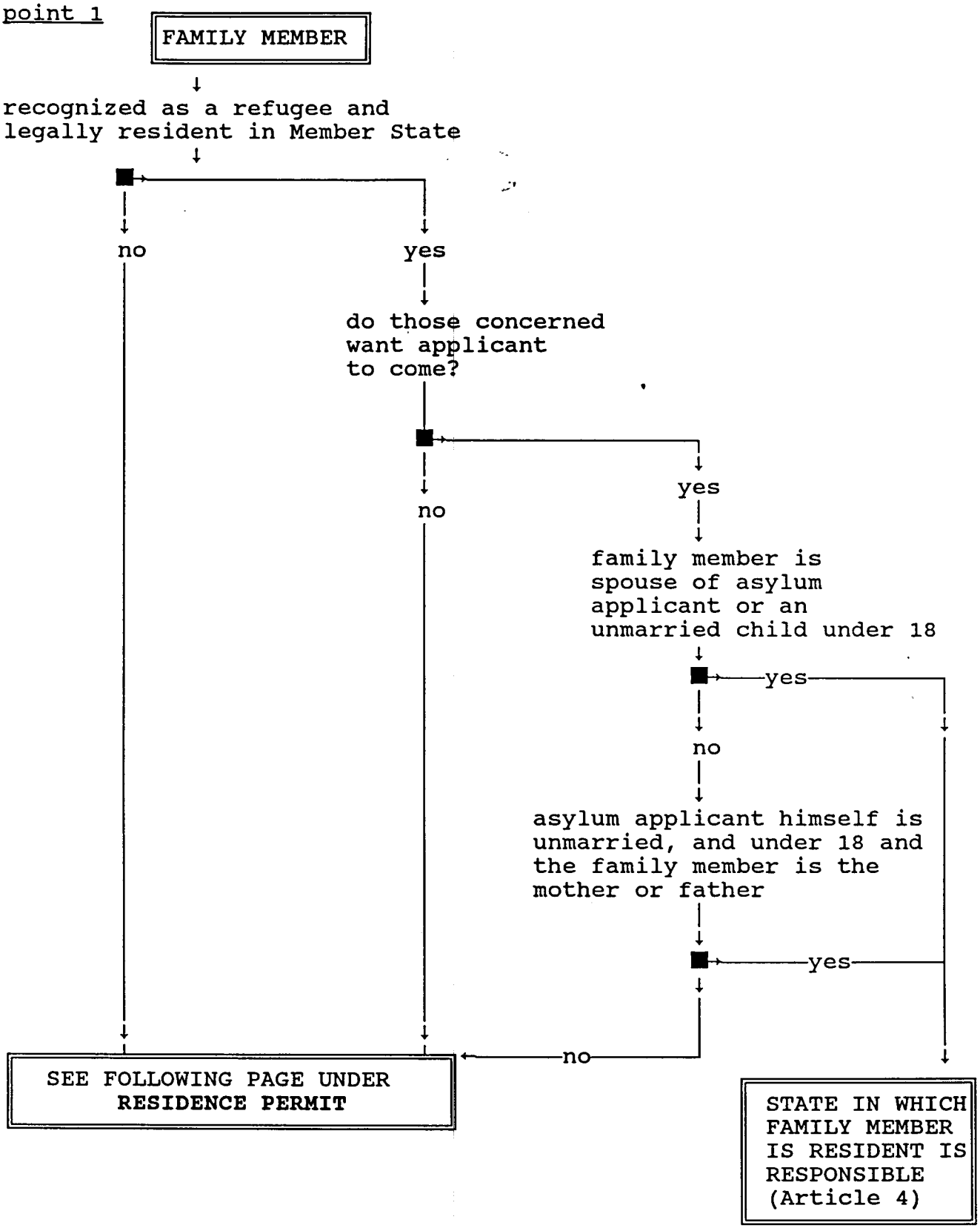
- the final day of the period is the deadline for sending the reply.

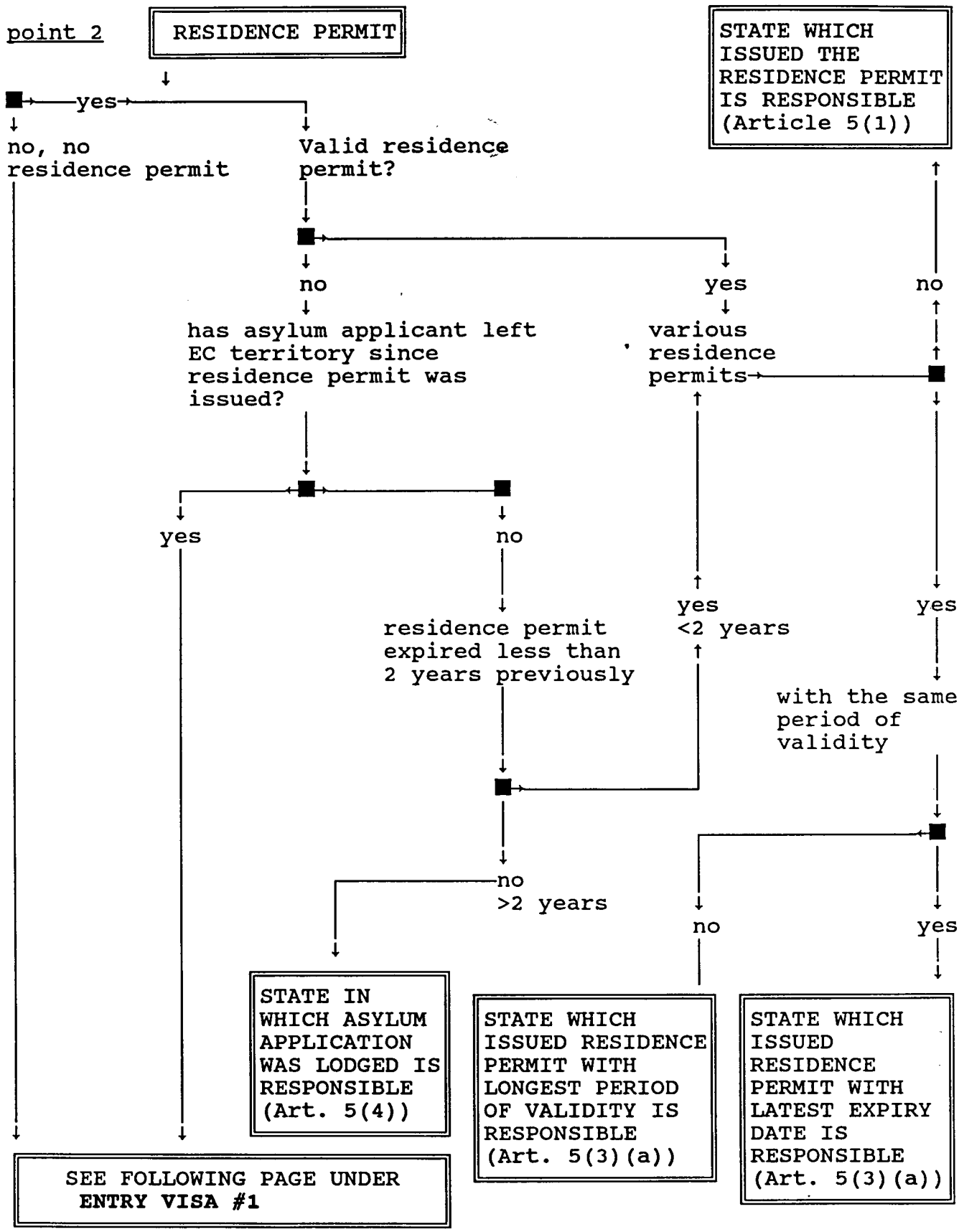
Flow chart on distribution of responsibility under articles 4, 5, 6, and 7 of the Dublin Convention (1)



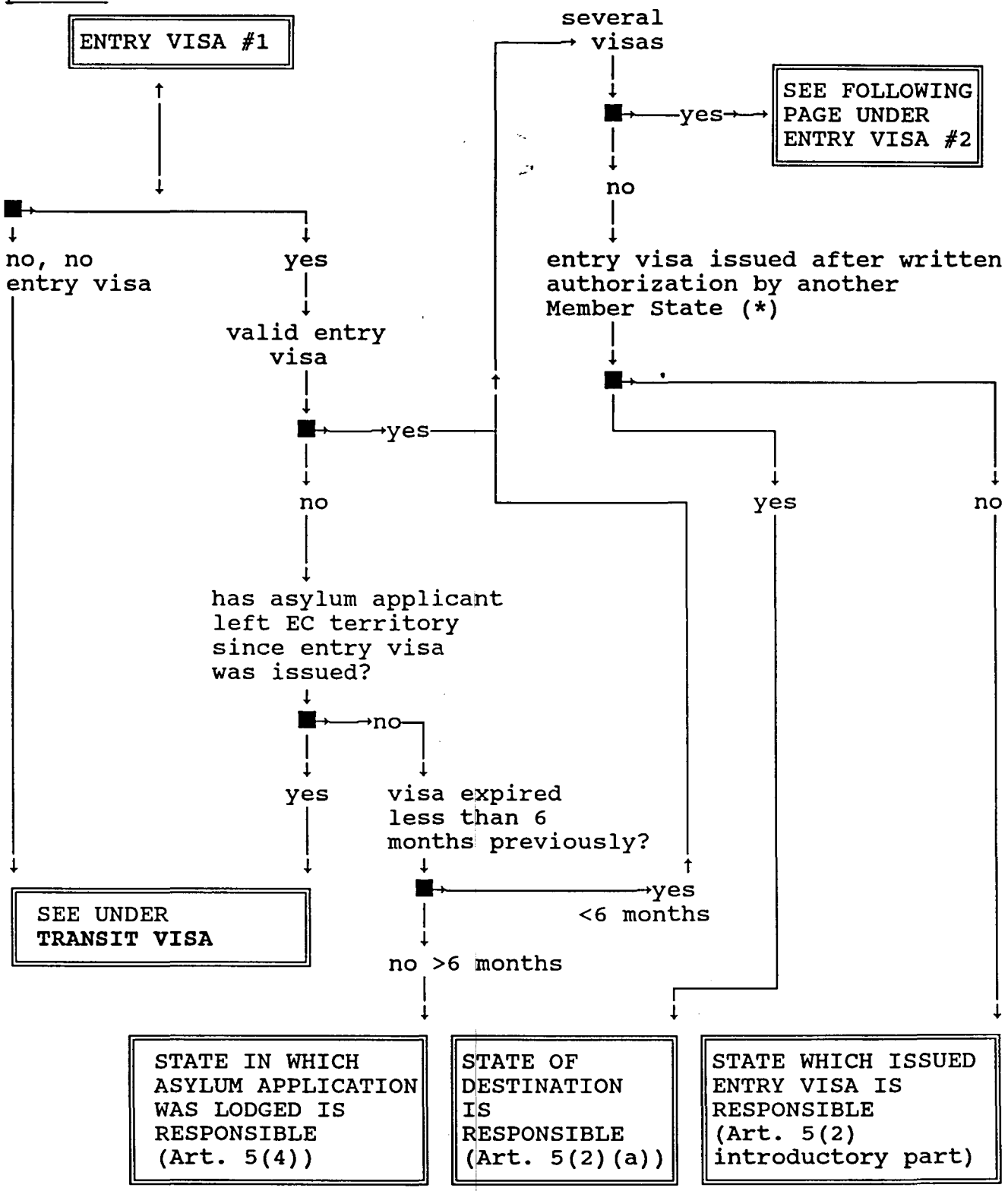
■ = Answer with choice between "yes" or "no";
▣ = Cross-reference to another page of flow chart;

(1) Flow chart given purely for indicative purposes.


point 1
FAMILY MEMBER
recognized as a refugee and legally resident in Member State
no
yes
do those concerned want applicant to come?
no
yes
family member is spouse of asylum applicant or an unmarried child under 18
yes
no
asylum applicant himself is unmarried, and under 18 and the family member is the mother or father
yes
no
SEE FOLLOWING PAGE UNDER RESIDENCE PERMIT
STATE IN WHICH FAMILY MEMBER IS RESIDENT IS RESPONSIBLE (Article 4)

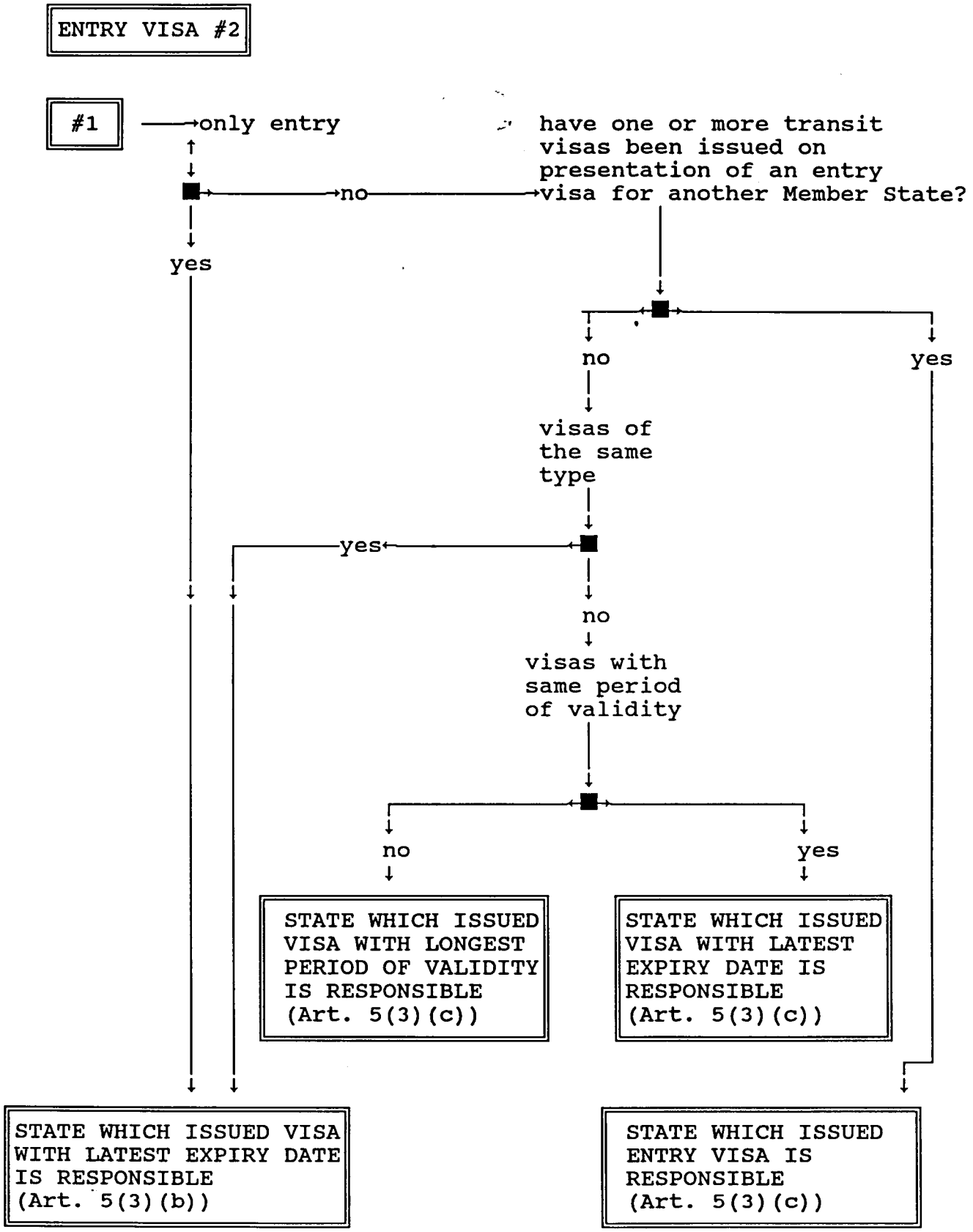

point 2
RESIDENCE PERMIT
STATE WHICH ISSUED THE RESIDENCE PERMIT IS RESPONSIBLE (Article 5(1))
yes
no, no residence permit
Valid residence permit?
no
yes
no
has asylum applicant left EC territory since residence permit was issued?
various residence permits
yes
no
yes
<2 years
yes
residence permit expired less than 2 years previously
with the same period of validity
no
>2 years
no
yes
STATE IN WHICH ASYLUM APPLICATION WAS LODGED IS RESPONSIBLE (Art. 5(4))
STATE WHICH ISSUED RESIDENCE PERMIT WITH LONGEST PERIOD OF VALIDITY IS RESPONSIBLE (Art. 5(3)(a))
STATE WHICH ISSUED RESIDENCE PERMIT WITH LATEST EXPIRY DATE IS RESPONSIBLE (Art. 5(3)(a))
SEE FOLLOWING PAGE UNDER ENTRY VISA #1

point 3

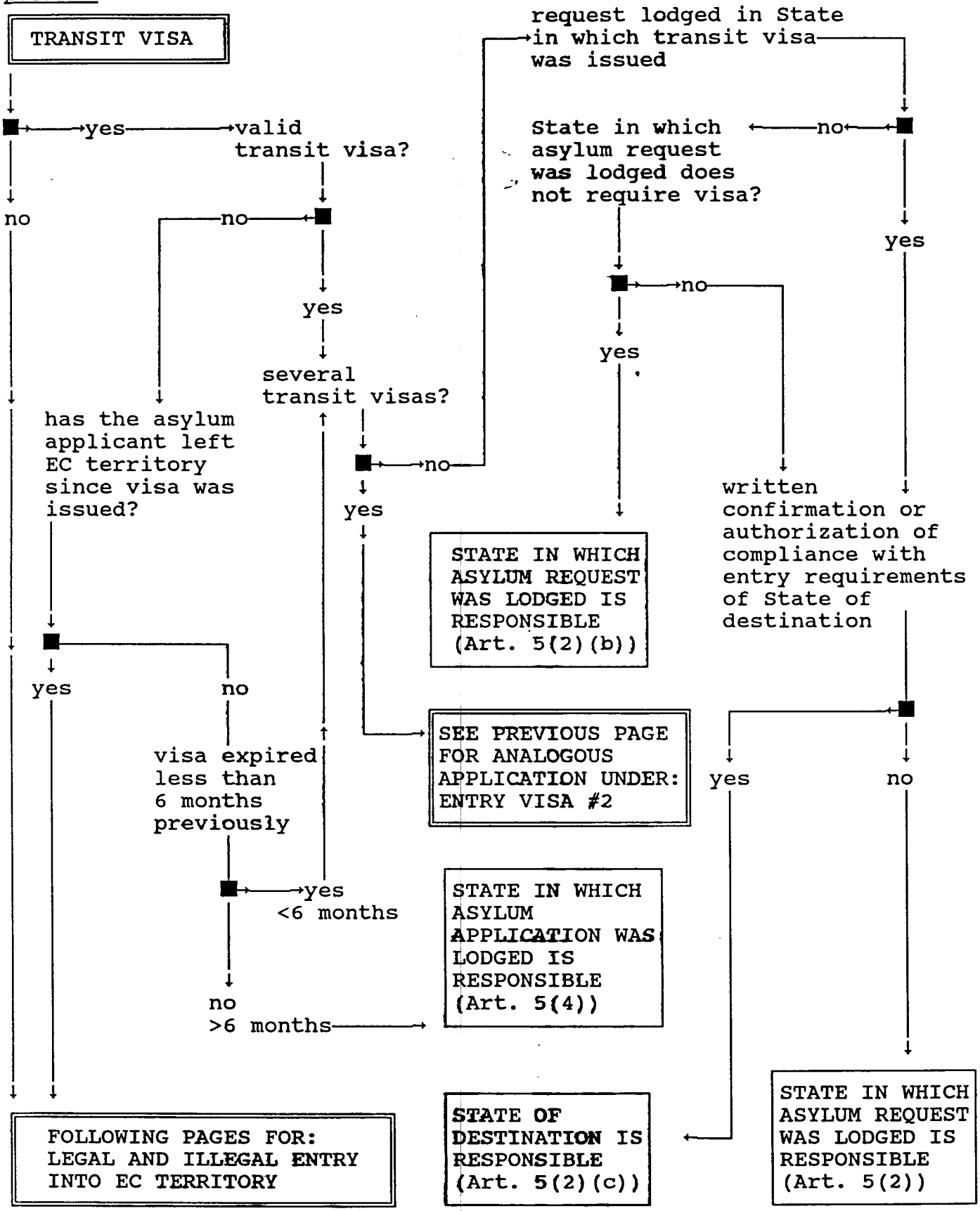


(*) Where a Member State first consults the central authority of another Member State, inter alia for security reasons, the agreement of the latter shall not constitute written authorization within the meaning of this provision (second sentence of Article 5(2)(a)).

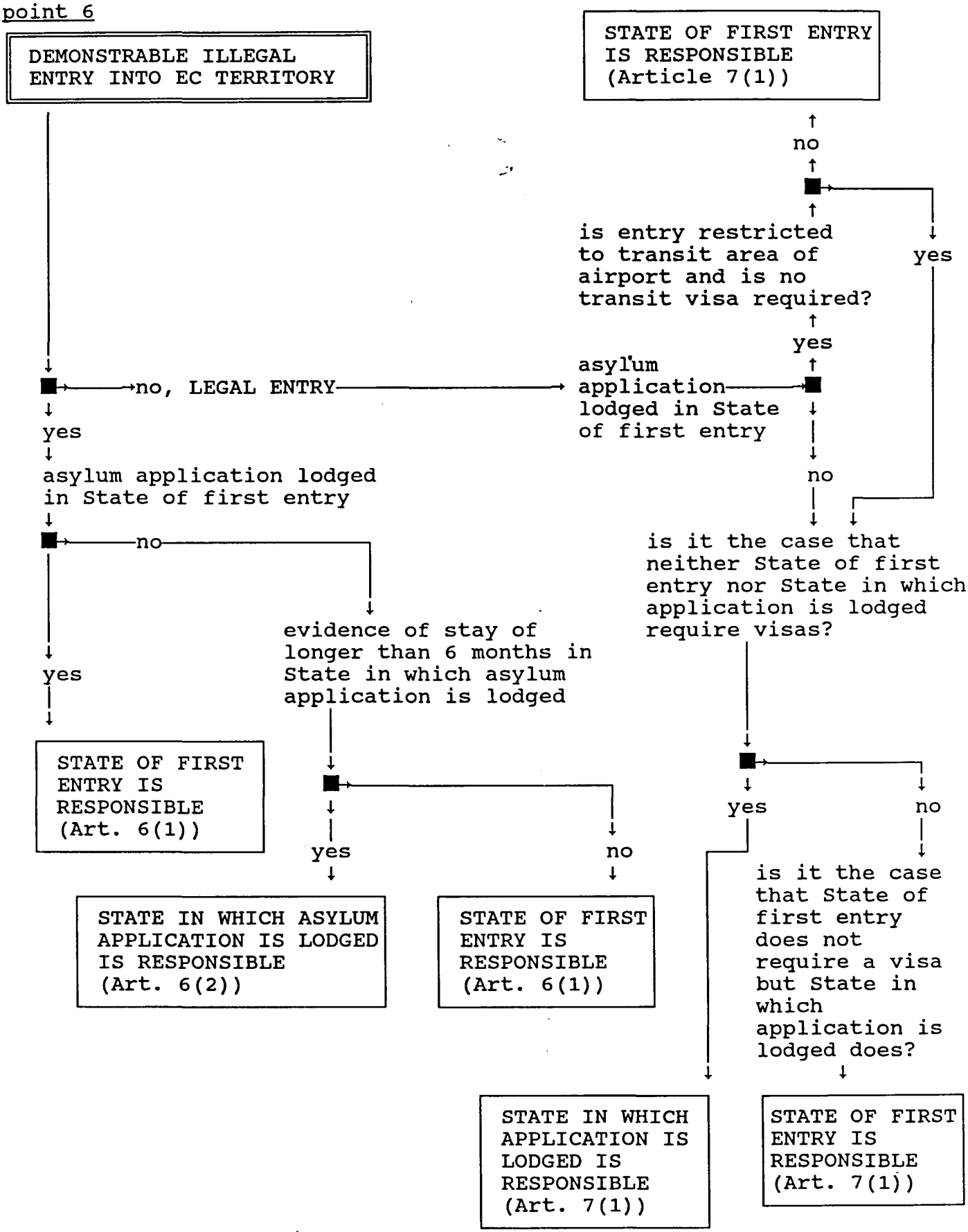
point 4


ENTRY VISA #2
#1
only entry
have one or more transit visas been issued on presentation of an entry visa for another Member State?
no
yes
no
yes
visas of the same type
yes
no
visas with same period of validity
no
yes
STATE WHICH ISSUED VISA WITH LONGEST PERIOD OF VALIDITY IS RESPONSIBLE (Art. 5(3)(c))
STATE WHICH ISSUED VISA WITH LATEST EXPIRY DATE IS RESPONSIBLE (Art. 5(3)(c))
STATE WHICH ISSUED VISA WITH LATEST EXPIRY DATE IS RESPONSIBLE (Art. 5(3)(b))
STATE WHICH ISSUED ENTRY VISA IS RESPONSIBLE (Art. 5(3)(c))

point 5


TRANSIT VISA
yes
valid transit visa?
no
no
yes
several transit visas?
has the asylum applicant left EC territory since visa was issued?
no
yes
request lodged in State in which transit visa was issued
State in which asylum request was lodged does not require visa?
no
yes
no
yes
written confirmation or authorization of compliance with entry requirements of State of destination
STATE IN WHICH ASYLUM REQUEST WAS LODGED IS RESPONSIBLE (Art. 5(2)(b))
SEE PREVIOUS PAGE FOR ANALOGOUS APPLICATION UNDER: ENTRY VISA #2
yes
no
visa expired less than 6 months previously
yes <6 months
no >6 months
STATE IN WHICH ASYLUM APPLICATION WAS LODGED IS RESPONSIBLE (Art. 5(4))
yes
no
FOLLOWING PAGES FOR: LEGAL AND ILLEGAL ENTRY INTO EC TERRITORY
STATE OF DESTINATION IS RESPONSIBLE (Art. 5(2)(c))
STATE IN WHICH ASYLUM REQUEST WAS LODGED IS RESPONSIBLE (Art. 5(2))

point 6


DEMONSTRABLE ILLEGAL ENTRY INTO EC TERRITORY
STATE OF FIRST ENTRY IS RESPONSIBLE (Article 7(1))
no
is entry restricted to transit area of airport and is no transit visa required?
yes
yes
no, LEGAL ENTRY
asylum application lodged in State of first entry
yes
no
asylum application lodged in State of first entry
no
is it the case that neither State of first entry nor State in which application is lodged require visas?
yes
STATE OF FIRST ENTRY IS RESPONSIBLE (Art. 6(1))
evidence of stay of longer than 6 months in State in which asylum application is lodged
yes
no
yes
no
STATE IN WHICH ASYLUM APPLICATION IS LODGED IS RESPONSIBLE (Art. 6(2))
STATE OF FIRST ENTRY IS RESPONSIBLE (Art. 6(1))
is it the case that State of first entry does not require a visa but State in which application is lodged does?
STATE IN WHICH APPLICATION IS LODGED IS RESPONSIBLE (Art. 7(1))
STATE OF FIRST ENTRY IS RESPONSIBLE (Art. 7(1))

CONCLUSIONS

on the transfer of asylum applicants
under the provisions of the Dublin Convention
(London, 30 November and 1 December 1992) ([1])

Introduction

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 (hereafter described as the "first" Member State) shall be assumed by another Member State (hereafter described as the "second" Member State).

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

3. The arrangements for transfer of the applicant are set out below.

Notification of the applicant

4. The first Member State will inform the applicant as soon as possible when a request is made under the provisions of Articles 11 and 13 to another Member State to take charge of or to take back an applicant and of the outcome of this request. Where responsibility is transferred to the second Member State, this notification shall inform the applicant of his liability for transfer to the second Member State under the provisions of Article 11(5) and Article 13(1)(b) and subject to any relevant

(1) Reservations by the Danish and Netherlands delegations.

national laws and procedures. Where the transfer is to be made as described in paragraph 5(a) (b) below, this notification will include information about the time and place to which the applicant should report on arrival in the second Member State.

Transfer of the applicant

5. When it is agreed that the applicant should be transferred to the second Member State, the first Member State will be under an obligation to ensure as far as possible that the applicant does not evade the 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 transfer of the applicant should take place. This may be either

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

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

6. Transfer of the applicant will be considered completed when either the applicant has reported to the authorities of the second Member State specified in the notification given to him, when the transfer is under 5(a) above; or when he has been received by the competent authorities of the second Member State, when transfer is under 5(b) above.

7. When transfer is under 5(a) above, the second Member State will inform the first as soon as possible after the transfer is completed, or where the applicant has failed to report within the specified deadline.

Deadlines for transfer

8. Articles 11(5) and 13(1)(b) provide that transfer and taking back must be concluded within one month of the second Member State accepting responsibility for examining the asylum application. Member States will make every effort to conform with these deadlines where transfer is made under paragraph 5(b) above.

9. If a transfer has been arranged under the provisions of 5(a) above, but is not completed because of the failure of the applicant to co-operate, 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). If the application is refused, the second Member State will remain liable for taking back the applicant under the provisions of Article 10(1)(e) unless the provisions of Article 10(2), (3) or (4) apply.

Progress with procedures for the ratification of the Dublin Convention

Country	Ratification date	Date of deposit of the instruments of ratification	Implementing law
Belgium			
Denmark	13 June 1991	13 June 1991	Law No 387 of 6 June 1991 (amendment of the Aliens Law)
Germany			
Greece	16 December 1991	3 February 1992	
Spain			
France			
Ireland			
Italy	23 December 1992	26 February 1993	
Luxembourg	20 April 1993		
Netherlands			
Portugal	18 December 1992	19 February 1993	
United Kingdom	1 July 1992	1 July 1992	

PART II

Texts adopted by

the Ministers responsible for Immigration