

Official Journal

of the European Communities

ISSN 0378-6978

L 281

Volume 40

14 October 1997

English edition

Legislation

Contents

Conventions signed between Member States

97/662/CMS:

- ★ Decision No 1/97 of 9 September 1997 of the Committee set up by Article 18 of the Dublin Convention of 15 June 1990, concerning provisions for the implementation of the Convention 1

97/663/CMS:

- ★ Decision No 2/97 of 9 September 1997 of the Committee set up by Article 18 of the Dublin Convention of 15 June 1990, establishing the Committee's Rules of Procedure 26

1

EN

Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

The titles of all other Acts are printed in bold type and preceded by an asterisk.

(Conventions signed between Member States)

DECISION No 1/97

of 9 September 1997

of the Committee set up by Article 18 of the Dublin Convention of 15 June 1990, concerning provisions for the implementation of the Convention

(97/662/CMS)

THE COMMITTEE set up by Article 18 of the Convention determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities, signed in Dublin of 15 June 1990 ⁽¹⁾,

HAVING REGARD to Articles 11 (6), 13 (2) and 18 (1) and (2) of that Convention,

WHEREAS it is necessary to adopt provisions to ensure the effective implementation of the Convention following its entry into force on 1 September 1997,

HEREBY DECIDES AND CONFIRMS:

Article 1

Unless stated otherwise, references in this Decisions to Articles and numbered and unnumbered paragraphs are to the provisions of the Convention determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities (hereinafter referred to as 'the Convention').

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.

Article 3

Reaction to a request that an applicant be taken in charge

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.

CHAPTER I

GENERAL GUIDELINES FOR IMPLEMENTATION OF THE CONVENTION

Article 2

Lodging an application for asylum

1. An application for asylum is regarded as having been lodged from the moment the authorities of the Member

Article 4

Time limit for replying 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

⁽¹⁾ OJ C 254, 19. 8. 1997, p. 1.

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 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.

Article 5

Urgent procedure

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.

Article 6

Exceeding the eight-day period for replying to a request for an applicant to be taken back

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

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

Article 7

Measures to expel an alien

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 provide written proof.

Article 8

Departure from the territory of the Member States

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.

Article 9

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

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 (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.

3. The second exception (subparagraph (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 (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 conformation that the transit visa was issued.

Article 10

Determination of the State responsible in the event of an applicant possessing several residence permits or visas

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.

Article 11

Determining the periods of time and actual entry into a State

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 subparagraphs of Article 5 (4).

Article 12

Irregular crossing of the border into a Member State

1. Proof that an applicant for asylum has irregularly crossed the border into a Member State (first subparagraph 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 subparagraph 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.

Article 13

Formal rules applying to approval by the applicant for asylum

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 decisions taken with regard to the applicant.

Article 14

Notification procedures

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 Articles 3 (4) and 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.

Article 15

Standard form for determining the State responsible

A specimen standard form for determining the State responsible for examining an application for asylum is given in Annex I hereto.

CHAPTER II

CALCULATION OF PERIODS OF TIME IN THE FRAMEWORK OF THE CONVENTION

Article 16

General rule

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

Article 17

Supplementary rule

For the purposes of calculating the periods provided for in Articles 11 (4) and 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.

CHAPTER III

TRANSFER OF ASYLUM APPLICANTS

Article 18

Introductory provisions

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').

2. Articles 10 (1) (a), (c), (d) and (e), 11 (5) and 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.

Article 19

Notification to the applicant for asylum

The first Member State shall inform the applicant as soon as possible when a request is made pursuant to 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 pursuant to Articles 11 (5) and 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.

Article 20

Transfer of 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 in 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 paragraph 1 (a), or when he has been taken in charge by the competent authorities of the second Member State, where transfer takes place under paragraph 1 (b).

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.

Article 21

Deadlines for transfer of 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 pursuant to Article 20 (1) (b) of this Decision.

2. If a transfer has been arranged pursuant to 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).

Article 22

Laissez-passer for transfer of applicants

A specimen laissez-passer for transfer of applicants for asylum is provided in Annex II hereto.

CHAPTER IV

MEANS OF PROOF IN THE FRAMEWORK OF THE CONVENTION

Article 23

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.

Article 24

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 of proof of these elements 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.

Article 25

Probative force of elements in lists A and B

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), (2), (3) and (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.

*Article 26***Consequences a 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.

*Article 27***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.

CHAPTER V

EXCHANGE OF INFORMATION*Article 28***Statistical and individual information**

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.
2. The Member States 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.

FINAL PROVISION*Article 29***Entry into force**

This Decision shall come into force on today's date.

It shall apply from 1 September 1997.

Done at Brussels, 9 September 1997.

For the Committee

The Chairman

M. FISCHBACH

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?

When and where?

Was any decision taken on the application?

When was the decision taken?

Yes No

.....

.....

No Not known Yes, refused

.....

Identity papers

- 17. National passport
Number
Issued on
By
Valid until
- 18. Document replacing passport
Number
Issued on
By
Valid until
- 19. Other document
Number
Issued on
By
Valid until
- 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)

Yes No

.....

.....

Yes No

.....

.....

Yes No

.....

.....

Departed Lost Stolen
without documents
(When, where?)
.....)

Other reasons
(Which?)
.....)

(*) In block capitals.

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

Yes

No

— 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)

Yes

No

— In which State or States?

.....

— From — to

.....

— Place/exact address

.....

.....

— Residence was

Authorized

Unauthorized

— Period of validity of residence permit

.....

— Purpose of residence

.....

.....

Residence in third countries (non-members of EU)

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

Yes

No

— 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

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 (1) to (2), with the asylum applicant required to present him/herself at (3) by (4).

Issued at:

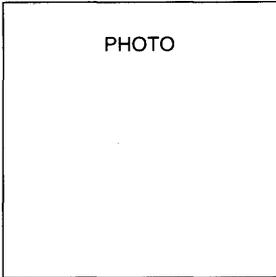
NAME:

FORENAMES:

PLACE AND DATE OF BIRTH:

NATIONALITY:

Date of issue:



SEAL

For the Ministry for the Interior:

The bearer of this *laissez-passer* has been identified by the authorities (5) (6).

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.

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

ANNEX III

LIST A

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 two years previously (and date of entry into force) (Article 5 (3))

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 six 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.

LIST B

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 ⁽¹⁾

- 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 two 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 six 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.

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,

(¹) This indicative evidence must always be followed by an item of probative evidence as defined in list A.

- reports/confirmation of information by international organizations, such as UNHCR,
- reports/confirmation of information by another Member State,
- re Articles 3 (7) and 10 (3): 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.

6. Residence in the Member State of application for at least six months prior to application (second subparagraph 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 (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.

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.

ANNEX IV

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	UK
1. submitted to															
2. accepted															
3. postponement of transfer after acceptance															
4. refused															
5. pending															
6. transfers															

Notes on Table 1:

Heading 1 (submitted to): 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	UK
1. submitted to															
2. accepted															
3. postponement of transfer after acceptance															
4. refused															
5. pending															
6. transfers															

Notes on Table 2:

Heading 1 (submitted to): 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.

DECISION No 2/97
of 9 September 1997
of the Committee set up by Article 18 of the Dublin Convention of 15 June 1990, establishing
the Committee's Rules of Procedure

(97/663/CMS)

THE COMMITTEE set up by Article 18 of the Convention determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities, signed in Dublin on 15 June 1990 ⁽¹⁾ (hereinafter referred to as 'the Committee' and 'the Convention' respectively),

Having regard to Article 18 (4) of the Convention,

Whereas it is appropriate that the operation of the Committee be governed by the same provisions *mutatis mutandis*, as those which feature in the rules of procedure of the Council of the European Union ⁽¹⁾ (hereinafter referred to as 'the Council'),

HAS DECIDED AS FOLLOWS:

Article 1

The Committee shall consist of a representative at ministerial level of each Member State party to the Convention, authorized to commit the government of that Member State.

Article 2

The provisions of the Council's Rules of Procedure, together with the Council statements pertaining thereto, shall apply *mutatis mutandis* to the proceedings of the Committee.

Article 3

Representatives of States which were not Member States of the European Communities when the Convention was signed and which have not yet acceded to that Convention in accordance with Article 21 thereof, are entitled to attend the meetings of the Committee as

observers. For the purposes of applying to the Committee's proceedings Articles 2 (1), (3) and (4), 4 (3) and (4), 9 (1) and (3) and Article 10 of the Council's Rules of Procedure, such representatives shall be considered as members of the Committee.

Article 4

Save where these Rules of Procedure provide otherwise, the Committee shall act on procedural matters by a majority of its members.

Abstentions by members present in person or represented shall not prevent the adoption by the Committee of acts which require unanimity.

Article 5

The conditions under which the public has access to Council documents, disclosure of which is without serious or prejudicial consequences, shall be applied *mutatis mutandis* to the Committee's documents.

Article 6

This Decision shall enter into force on the day following its adoption.

Done at Brussels, 9 September 1997.

For the Committee

The Chairman

M. FISCHBACH

⁽¹⁾ OJ C 254, 19. 8. 1997, p. 1.

⁽²⁾ OJ L 304, 10. 12. 1993, p. 1, and OJ L 31, 10. 2. 1995, p. 14.