issues of fact and law'.[434] The list of circumstances in which Member States can apply accelerated procedures would be cut from fifteen cases to just six.[435]

The rules on inadmissible cases would include a new provision requiring a special interview before ruling a case inadmissible.[436] As for the 'safe third country' concept, it would be revised to require Member States to assess the risk of 'serious harm' in the relevant third State and to allow the applicant to challenge both the presumption of safety and of the connection with the third State concerned.[437] The 'safe country of origin' rules would be amended to delete the possibility of treating only part of a country as safe and to repeal the option for Member States to retain pre-existing lower standards on this issue.[438] Furthermore, the standards relating to repeat applications would also be modestly raised,[439] and the derogations relating to border procedures would be deleted.[440]

Finally, as regards the issue of remedies, the proposal would require Member States to let applicants stay on the territory as a general rule, and would require an appeal of the merits as well as the law.[441]

The proposed Directive is very welcome inasmuch as it addresses a large majority of the criticisms of the existing Directive, as regards in particular territorial scope, access to procedures, extradition, the supremacy of refugee law, personal interviews, legal aid and assistance, time limits, accelerated procedures, safe third countries, safe countries of origin, and remedies. It is unfortunate, however, that the Commission has not proposed an absolute time limit on detention (which should obviously match the time limit for taking a decision on an application, at the very latest), or proposed the abolition of the 'super-safe countries' rule.

5.8. Responsibility for applications

The rules on responsibility for asylum applications were first of all set out in the 1990 Schengen Convention and the Dublin Convention of the same year.[442] These rules were subsequently replaced by the Dublin II Regulation, as from September 2003,[443] as supplemented by the Eurodac Regulation, adopted in 2000 and applicable from January 2003.[444] The Commission has released one report on

[434] New Art 27(3). For the current practice of Member States as regards the time required to make first-instance decisions, see Annex 23 to the 2009 impact assessment.
[435] Revised Art 27(6) (current Art 23(4)). The new Art 27(9) would provide for cases which could not per se justify the application of an accelerated procedure. [436] New Art 30.
[437] New Art 32(1)(b) and revised Art 32(2)(c) (current Art 27(3)(c)).
[438] Revised Art 33 (current Art 30).
[439] Revised Arts 35 and 36 (current Arts 32 and 34); the current Art 33 would be repealed.
[440] Revised Art 37 (current Art 35); the current Art 35(2) and (3) would be repealed.
[441] Revised Art 41 (current Art 39). [442] See 5.8.1 below. [443] See 5.8.2 below.
[444] See 5.8.3 below.

the application of the 'Dublin system' (ie the 'Dublin II' Regulation along with the Eurodac Regulation) in practice,[445] and has submitted proposals for amendment of both Regulations,[446] as part of the development of the second phase of the Common European Asylum System.

CEAS

5.8.1. The Schengen Convention and the Dublin Convention

Articles 28–38 of the 1990 Schengen Convention set out rules on responsibility for asylum applications between the Schengen States, with effect from March 1995.[447] These rules were replaced by the essentially identical rules applicable to all Member States set in the Dublin Convention, in force from 1 September 1997.[448] The Dublin Convention was, like the Schengen Convention, explicitly related to the goal of abolishing internal borders within the EU, as set out in Article 14 EC (now Article 26 TFEU). The Convention was agreed because Member States feared that loosening or abolishing internal border checks would lead to an increase in multiple asylum applications (ie applications by the same person in more than one Member State). However, without common rules on how to determine which Member State was responsible for an application, Member States would inevitably take different approaches to determining which other Member State was responsible, and many applications would likely fall within the jurisdiction of two (or possibly more) Member States. To solve this problem, the Convention drew up a list of conflict rules for determining the Member State with jurisdiction over an application. These were to be applied in the following order:[449]

(a) the Member State where the applicant has a specified family member (spouse, parent, or child) who already has been recognized as a Geneva Convention refugee;[450]
(b) the Member State which has issued the applicant a residence permit;[451]
(c) the Member State which has issued the applicant a visa, with certain specified exceptions;[452]
(d) the Member State which the applicant first entered illegally, unless the applicant has been living in the Member State where he or she has applied for over six months;[453]
(e) the Member State responsible for controlling entry of the applicant, unless the applicant is a non-visa national who does not require a visa to enter either the Member State of first entry or the Member State in which he or she subsequently applies;[454]

[445] COM (2007) 299, 6 June 2007. [446] See 5.8.4 below. [447] [2000] OJ L 239.
[448] [1997] OJ C 254/1. [449] Art 3(2). [450] Art 4. [451] Art 5(1).
[452] Art 5(2). If the applicant had multiple residence permits or visas, special rules in Art 5(3) and (4) applied. [453] Art 6.
[454] Art 7(1). The responsible State for a non-visa national was the State in which he or she applied.

(f) the Member State in which an application is made in an airport transit zone;[455] or
(g) as a default, the Member State in which the application is made.[456]

It was also open to a Member State to decide that a non-EU country was responsible for the application,[457] or to either offer or accede to a request from another Member State to examine an application regardless of these conflict rules.[458] Detailed procedures on the transfer of asylum seekers and the exchange of information were set out.[459] The treaty was implemented by a body established by Article 18 of the Convention (the 'Article 18 Committee'), which adopted a number of measures in 1997, 1998, and 2000.[460]

The Convention was heavily criticized for forcing apart family members, for ignoring the differences in national interpretation of the Geneva Convention, and for inducing asylum seekers to destroy travel documents—thus avoiding the application of the conflict rules (due to an absence of proof about the countries they had previously entered) but raising a suspicion that their submissions about the persecution they faced would be disbelieved by authorities because of their lack of full disclosure of their prior travel details.[461] From the perspective of national authorities, the Convention was also disappointing, because only about 6% of asylum applications were identified as subject to it; since only two-thirds of those cases were accepted by the Member State identified as responsible and only 40% of the remaining cases actually resulted in the transfer of an asylum only 1.7% of all asylum applications made in the EU were ultimately subject to the transfer of an asylum seeker pursuant to the rules in the Convention.[462] In 2001, only 4.2% of asylum applications were subject to requests to take responsibility according to the Convention, and 71.4% of these requests were accepted (3% of the total asylum applications).[463]

[455] Art 7(3). [456] Art 8. [457] Art 3(5). [458] Respectively Arts 3(4) and 9.

[459] Respectively Arts 10–15.

[460] Decisions 1/97 and 2/97 ([1997] OJ L 281/1 and 26); Decision 1/98 ([1998] OJ L 196/49); and Decision 1/2000 ([2000] OJ L 281/1). On implementation of the Convention up to 1998, see the first edition of this book, at 114–116.

[461] On the Convention, see C Marinho, ed, *The Dublin Convention on Asylum* (EIPA, 2000); K Hailbronner and C Thiery, 'Schengen II and Dublin: Responsibility for Asylum Applications in Europe' (1997) 34 CMLRev 957; A Hurwitz, 'The 1990 Dublin Convention: A Comprehensive Assessment' (1999) IJRL 646; and S Da Lomba, *The Right to Seek Refugee Status in the European Union* (Intersentia, 2004), 117–131.

[462] The statistics are for 1998–99, and were taken from the Commission evaluation of the Convention (SEC (2001) 756, 12 June 2001, p. 2).

[463] There were 371,680 asylum applications, 15,776 outgoing requests under the Convention and 11,268 acceptances of those requests. The statistics do not indicate what percentage of asylum seekers were subsequently transferred. These statistics are taken from the Commission annual report on migration and asylum statistics: <http://ec.europa.eu/justice_home/doc_centre/asylum/statistics/doc_annual_report_2001_en.htm>.

5.8.2. The 'Dublin II' Regulation

The Dublin Convention was replaced as from 1 September 2003 by Regulation 343/2003, known in practice as the 'Dublin II' Regulation.[464] This Regulation set out certain additions and amendments to the hierarchy of criteria for responsibility in the Convention along with an acceleration of the procedure for transferring asylum seekers between States, and has been implemented by a Commission Regulation, pursuant to powers which the Regulation conferred upon the Commission to adopt implementing measures.[465] The Regulation still leaves Member States free to decide that a non-Member State should take responsibility, or to take responsibility even where the Regulation does not require it.[466] It has been amended once, in order to change the rules relating to the adoption of implementing measures.[467] As noted above, in 2007 the Commission released a report on the operation of the 'Dublin system',[468] which is considered also below.

As for the Court of Justice, the Commission brought one infringement action against a Member State (Greece) for incorrect application of the Regulation, because Greece refused to consider the merits of asylum applications brought by persons who had initially made applications there, made later applications in other Member States, and then were transferred back to Greece, on the grounds that the applications had been withdrawn.[469] In fact, because of concerns about 'very low material reception standards', the Commission has reported that 'at least four Member States have refused to return asylum seekers to Greece despite the fact that Greece is responsible for processing their claim'.[470] The Court of Justice has also received one reference from a national court on the interpretation of the Regulation,[471] and two national courts have agreed to send further references concerning the validity of transfers of asylum seekers to Greece.[472]

In common with the Dublin Convention, the Regulation still leaves Member States free to decide that a non-Member State should take responsibility, or to take

[464] [2003] L 50/1; see Art 29 on the date of application. On the Regulation, see: S Da Lomba, *The Right to Seek Refugee Status in the European Union* (Intersentia, 2004), 131–141; A Nicol, 'From Dublin Convention to Dublin Regulation: A Progressive Move?', in A Baldaccini, E Guild, and H Toner, eds, *Whose Freedom, Security and Justice? EU Immigration and Asylum Law and Policy* (Hart, 2007), 265; and H Battjes, *European Asylum Law and International Law* (Martinus Nijhoff, 2006), ch 7.

[465] Reg 1560/2003, [2003] OJ L 222/3. [466] Arts 3(2) and 15 of the Regulation.

[467] Reg 1103/2008 ([2008] L 304/80), changing the rules to apply the 'regulatory procedure with scrutiny' for the adoption of implementing measures. See further 2.2.2.1 above.

[468] COM (2007) 299, 6 June 2007.

[469] Case C-130/08 *Commission v Greece*. See now the proposal for a revised Regulation, which addresses this issue (5.8.4 below). On the concept of withdrawn applications, see also the asylum procedures Directive, discussed in 5.7 above.

[470] See the impact assessment for the proposed reception conditions Dir (SEC (2008) 2944, 3 Dec 2008, p 15). [471] Case C-19/08 *Petrosian* [2009] ECR I-495.

[472] *Saeedi* (a UK reference) and *Edris and others* (an Irish reference). For a survey of national court practice on this issue, see: <http://www.unhcr.gr/dt/dublinIIreg.pdf>.

responsibility even where the Regulation does not require it.[473] The first criterion for responsibility is now the new criterion relating to unaccompanied minors; the Member State responsible for them is the Member State where a family member can take care of them, or failing that the Member State where they lodged their application.[474] The second criterion, family reunion with recognized refugees, was unchanged from the Dublin Convention.[475] The third criterion is new: a Member State is responsible for the family members of an asylum seeker if the latter is still waiting for a decision on the substance of the application in that Member State.[476]

rules and criteria on applications

The second criterion in the Convention rules (issue of a visa or a residence permit) became the fourth criterion in the Regulation, but it was not significantly changed in substance.[477] It should be noted that the Visa Information System, once operational, will be used in order to check more effectively whether a visa has been issued to an asylum seeker.[478] The third criterion in the Convention (crossing the border irregularly) became the fifth criterion in the Regulation, but responsibility now terminates after twelve months.[479] In order to enforce this provision, the Eurodac Regulation requires Member States to take fingerprints of persons who are stopped crossing the external borders irregularly.[480] Also, a further new provision specifies that if a Member State cannot or can no longer be held responsible on grounds of irregular border crossing, another Member State will become responsible if a person has resided there, having initially entered irregularly, for more than five months.[481] The political context of this provision was the settlement of a dispute between the UK and France concerning asylum seekers residing in France but who attracted little or no interest from the French authorities, who frequently attempted to enter the UK. Next, the sixth criterion (formerly the fourth) is the State responsible for controlling the entry of a non-visa national, with the wording of the Dublin Convention rules in effect retained.[482] The seventh criterion (formerly the fifth) is the Member State where the asylum seeker applied for asylum in the airport transit zone.[483] Finally, as before, the default criterion is the Member State where the asylum seeker submitted his or her application.[484]

There is a new 'tie-break' clause in the event of family members submitting an application in the same Member State close together,[485] but no such clause to govern the position where the family members submit applications in *different* Member States. The old 'humanitarian' clause was retained and expanded, now focusing on family reunion alone.[486] Although this clause remains optional for Member States, it might well be possible in national law to argue about how the authorities have exercised their discretion.

[473] Arts 3(2) and 15 of the Regulation.
[474] Art 6. See now the action plan on unaccompanied minors (COM (2010) 213, 6 May 2010).
[475] Art 7. [476] Art 8. [477] Art 9.
[478] Reg 767/2008, [2008] OJ L 218/60, Art 21. See further 4.8 above.
[479] Art 10(1). [480] See 5.8.3 below. [481] Art 10(2). [482] Art 11. [483] Art 12.
[484] Art 13. [485] Art 14. [486] Art 15.

The procedural rules and provisions on administrative cooperation were amended, in particular to accelerate the transfer of asylum seekers and to include some of the details of the previous implementing measures in the text of the Regulation (with the result that the Commission cannot amend those provisions via means of a 'comitology' procedure).[487] The suspensive effect of an appeal against the application of the Regulation is permitted on a case-by-case basis, although it is only optional for Member States.[488] According to the Court of Justice, the time limit of six months to take an asylum seeker back following the agreement to do so by a Member State only starts to run from the date of a final court decision on a challenge to a transfer decision, not from the date on which a court or tribunal suspended that transfer pending its judgment.[489]

As for the implementation of the Regulation,[490] the Commission's 2007 report indicates that over 2003–05, the number of asylum applications subject to requests to apply the Dublin II rules rose to 11.5%, as compared to 6% for the Dublin Convention. The acceptance rate of transfers was similar (72%) and the rate of transfers carried out rose to 52%, although the Commission still considered this disappointing. Overall 4.1% of asylum seekers were transferred under the rules, also a rise compared to the previous period, but still quite a modest percentage of the overall number of asylum seekers. The Commission did not suggest the reasons why such a low percentage of asylum seekers was still covered by the Dublin rules, given that the Eurodac system had started operations and the EU had been enlarged in the meantime.

On the criteria in the Dublin rules, the Commission reported that: unaccompanied minors made up perhaps 1–2% of requests; the family members' provisions were 'rarely applied' due to evidence problems; the criteria regarding visas and residence permits were 'applied frequently', particularly as regards visas (about 6–20% of requests); the requests for the application of the irregular entry criterion 'far exceed transfers', because of the low rate of fingerprinting under the Eurodac system (see below) and the difficulty proving irregular entry without such data; the 'illegal stay' criterion was 'less often' used, again due to evidence problems; and the 'legal entry' criterion made up only a 'small proportion' of requests. The failure to carry out half of the agreed transfers was due to asylum seekers absconding (the evidence that detention was necessary to avoid this was mixed), the suspensive effect of an appeal (although few Member States allowed this), illness or humanitarian reasons, or voluntary return to the country of origin.

MW that is, the transfers back to the MS of first entry

This evidence suggests that the Dublin rules remain an expensive waste of time, ultimately still applying to only a small percentage of asylum seekers and imposing an extra cost on top of the cost of considering each asylum application. The application of the Eurodac system and the increase in EU border controls

[487] Arts 16–23. [488] Art 20(1)(e). [489] See the judgment in *Petrosian* (n 470 above).
[490] COM (2007) 299 and SEC (2007) 742, 6 June 2007.

have not altered the situation profoundly. Yet, as we shall see, the Commission's subsequent proposal to amend the Dublin system tries to improve it, rather than overthrow it.

From a human rights perspective, there was some improvement in the Regulation as regards the issue of family reunion, although with a narrow definition of 'family' in the Regulation and the limitation of reunion to certain categories (leaving out, for instance reunion with an irregularly resident family member, a family member enjoying or applying for subsidiary protection, or a family member with legal residence on other grounds) many families could still be separated by the revised rules. It is arguable that the fundamental objection to allocating responsibility for asylum claims in the absence of a common definition of the Geneva Convention should have been overcome after the qualification Directive took effect, from October 2006—although it has transpired that in practice there is still great divergence in Member States' asylum law, in spite of the latter Directive.[491] In any case, the negative impact of the Dublin Convention rules as regards the destruction of documents by asylum seekers was not reduced by the Regulation.

5.8.3. Eurodac

The Eurodac Regulation was adopted in December 2000,[492] and took effect on 15 January 2003, when Eurodac began operations following the satisfaction of complex technical requirements by the Commission and the Member States.[493] It should be noted that the Commission's operational management of Eurodac would in future be transferred to a new agency responsible for EU JHA database management, if the Commission's proposal to this end is adopted.[494]

The Regulation requires fingerprints of all asylum seekers over fourteen to be taken and transmitted to a 'Central Unit' which compares them with other fingerprints previously (and subsequently) transmitted to see whether the asylum seeker has made multiple applications in the EU.[495] Similarly, Member States must take the fingerprints of all third-country nationals who cross a border irregularly,[496] and transmit them to the Central Unit to check against fingerprints

contents of Eurodac system

[491] See 5.5 above.

[492] Reg 2725/2000, [2000] OJ L 316/1. On the Regulation, see E Brouwer, 'Eurodac: Its Temptations and Limitations' (2002) 4 EJML 231.

[493] See Art 27(2) and the Communication on start of operations ([2003] OJ C 5/2).

[494] COM (2009) 293, 24 June 2009; revised: COM (2010) 93, 19 Mar 2010.

[495] Chapter II (Arts 4–7).

[496] Rather dubiously, this concept is extended in an unpublished statement in the Council minutes to include cases where a third-country national 'is apprehended beyond the external border, where he/she is still en route and there is no doubt that he/she crossed the external border irregularly' (Council doc 12314/00 Add 1, 15 Nov 2000).

contents of Eurodac system

subsequently taken from asylum seekers.[497] Member States may also take fingerprints of third-country nationals 'found illegally present' and transmit them to the Central Unit to see whether such persons have previously applied for asylum in another Member State. There are provisions on data protection, data security, and rights of the data subject.[498] For a transitional period, the data on recognized refugees is blocked once the refugee status of a person is granted.[499] At the end of that period (January 2008), the EU institutions had to decide either to store the data and use it in the same way as data on asylum seekers, or to erase all data as soon as a person has been recognized as a refugee. No such decision has yet been taken, although the subsequent proposal to amend the Regulation addresses this issue.[500]

The EU institutions disagreed as to which institution should have the power to adopt implementing measures. Ultimately, although Article 202 EC (now, after the Treaty of Lisbon, Article 291 TFEU) required implementing power to be delegated to the Commission, with a limited possibility of delegating power to the Council, the Council decided that it would retain power to adopt the measures concerning the detailed operations of the Central Unit and concerning the 'blocking' of the fingerprints of recognized refugees, while leaving other measures to be adopted by the Commission following a form of 'comitology' procedure.[501] Applying this procedure, the Eurodac Regulation was subsequently implemented by Council Regulation 407/2002.[502] This Regulation sets out rules on transmission of data by Member States, carrying out comparisons by the Central Unit, communication between Member States and the Central Unit, and other tasks of the Central Unit, which concern the separation of data on different categories of fingerprints and gathering statistics on the number of recognized refugees who request asylum in other Member States.

The Commission is required to report annually on the operation of Eurodac and to evaluate Eurodac generally at regular periods, beginning in January 2006.[503] According to these annual reports,[504] in 2003 Eurodac registered 271,573 sets of fingerprints: 246,902 from asylum seekers, 7,857 from irregular border-crossers, and 16,814 from irregular residents. In 2004, the ten new Member States began operating the Eurodac system, most immediately upon accession and the last two by July 2004. Eurodac registered 287,938 sets of fingerprints: 232,205 from asylum seekers, 16,183 from irregular border-crossers,

[497] Chapter III of the Regulation (Arts 8–10). [498] Chapter VI (Arts 13–20). [499] Art 12.
[500] See 5.8.4 below. [501] Art 23. On the issue of comitology, see 2.2.2.1 above.
[502] [2002] OJ L 62/1.
[503] Art 24 of Reg 2725/2000. On the first general evaluation, see 5.8.2 above.
[504] SEC (2004) 557, 5 May 2004 (for 2003); SEC (2005) 839, 20 June 2005 (for 2004); SEC (2006) 1170, 15 Sep 2006 (for 2005); SEC (2007) 1184, 11 Sep 2007 (for 2006); COM (2009) 13, 26 Jan 2009 (for 2007); COM (2009) 494, 25 Sep 2009 (for 2008); and COM (2010) 415, 2 Aug 2010 (for 2009).

and 39,550 from irregular residents. In 2005, there were 258,684 sets of fingerprints: 187,223 from asylum seekers, 25,162 from irregular border-crossers, and 46,299 from irregular residents. In 2006, there were 270,611 sets of fingerprints: 165,958 from asylum seekers, 41,312 from irregular border-crossers, and 63,341 from irregular residents. In 2007, there were 300,018 sets of fingerprints: 197,284 from asylum seekers, 38,173 from irregular border-crossers, and 64,561 from irregular residents. In 2008, there were 357,421 sets of fingerprints: 219,557 from asylum seekers, 61,945 from irregular border-crossers, and 75,919 from irregular residents. Finally, in 2009, there were 353,561 sets of fingerprints: 236,936 from asylum seekers, 31,071from irregular border-crossers, and 85,554 from irregular residents.

It can be seen that over 2003–08, the total number of asylum seekers' fingerprints registered dropped and then increased again (with a minor drop in 2009), in line with the trend for asylum applications. On the other hand, the number of fingerprints registered from irregular border-crossers and irregular residents has overall risen significantly, although there was a sharp drop for the former category in 2009 (understood to be the consequence of an agreement between Italy and Libya). For several years, the Commission suggested that many cases of irregular border crossing may be missing from the Eurodac system, but it has not repeated this suggestion since the 2007 general evaluation. In any event, the statistics regularly show that over half of the irregular border-crossers who made a subsequent asylum claim did so in the *same* Member State—which is irrelevant for the purposes of the Dublin system. About 20–25% of the persons who were irregularly staying had made prior asylum claims, one-third of these in the same Member State. The percentage of multiple asylum applications detected was 7% in 2003, 13.5% in 2004, and 16% in 2005, and then stabilized: 17% in 2006, 16% in 2007, and 17.5% in 2008 (these figures include some comparisons with fingerprints submitted by the same Member State). The Commission frequently observed that there were a high number of 'special searches' of the system, which were supposed to be exceptionally rare.

Neither the annual reports nor the general evaluation of the Dublin system (see above) have been able to draw comprehensive conclusions about the link between Eurodac data and the application of the Dublin II Regulation, except to show that Member States rarely accept responsibility for irregular border-crossers in the absence of such data. But it is clear, as discussed above, that since Eurodac began operations, the numbers of persons covered by the Dublin rules has only increased modestly. So it might be questioned whether Eurodac has contributed to the operation of the Dublin rules sufficiently to justify the cost of the system for the EU and its Member States.

It remains to be seen whether this situation changes once national authorities have access to certain information in the Visa Information System (VIS) in order to assist with determining the country responsible for determining the asylum

claim.[505] The future is likely to include interlinks between Eurodac and other EU information systems.[506]

The operation of Eurodac is subject to the principles of data protection and the right to privacy, in particular requiring a link with the data collected and a legitimate aim and the application of the principle of proportionality (including the 'purpose limitation' principle of data protection law, ie giving access to the data only for the purposes it was originally collected for). In fact, the Eurodac system already infringes this principle to the extent that data on irregular border-crossers is kept for a longer period than the period during which a Member State could be held responsible under the Dublin II rules.

5.8.4. Proposals for amendment

In December 2008, the Commission proposed parallel measures to amend both the Dublin II Regulation and the Eurodac Regulation.[507] The Eurodac proposal was replaced by a new proposal in September 2009,[508] at which point the Commission also proposed a parallel third pillar Decision to give law enforcement services access to Eurodac data.[509] The latter proposal lapsed with the entry into force of the Lisbon Treaty, and has not yet been replaced by a new proposal, although a replacement proposal will likely be made in 2010.[510]

The proposed amendments to the Dublin II Regulation would first of all extend the scope of that Regulation to persons who make applications for subsidiary protection.[511] Next, the scope of 'family members' would be enlarged to include married minor children, the parents of married minor children, and minor siblings.[512] The provision permitting Member States to determine that a third State is responsible for the application would be amended to confirm

[505] Art 18 of Reg 767/2008 ([2008] OJ L 218/60); see generally 4.8 above. See also 5.5 above, on access to the VIS to decide on the merits of asylum claims.

[506] See Commission Communication (COM (2005) 597, 24 Nov 2005).

[507] COM (2008) 820 and 825, 3 Dec 2008. For comments on the proposals, see: ECRE, online at: <http://www.ecre.org/files/ECRE_Response_to_Recast_Dublin_Regulation_2009.pdf>; Caritas Europa and others, online at: <http://www.caritas-europa.org/module/FileLib/ChrGrp_CommonpaperonECproposalsforDublinII_FINALd.pdf>; the Meijers Committee, online at: <http://www.statewatch.org/news/2009/mar/eu0dublin-reception-meijers-cttee.pdf>; and the UNHCR, online at: <http://www.unhcr.org/4a0d6a6710.html>.

[508] COM (2009) 342, 10 Sep 2009.

[509] COM (2009) 344, 10 Sep 2009. See also the 'bridging clause' in the proposed Regulation (new Art 3, ibid).

[510] The correct legal base for this proposal would now be Art 87(2)(a) TFEU. See 12.2.4 below.

[511] See, for instance, the revised Arts 1 and 2(b). This would also mean that responsibility for applications would lie with a Member State where a family member has received or applied for *international protection*, not merely refugee status (revised Arts 9 and 10).

[512] Revised Art 2(i).