

Establishing a European Asylum Support Office

2009/0027(COD) - 18/02/2009 - Legislative proposal

PURPOSE: to establish a European Asylum Support Office.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

BACKGROUND: this proposal forms part of EU efforts to develop a comprehensive asylum policy. Work on the creation of a Common European Asylum System (CEAS) started with the Tampere European Council (1999) and continued in 2004 with the definition of the Hague Programme, which is designed to strengthen freedom, security and justice, and to create a common asylum area. This Programme proposed the setting-up of a European support office for all forms of cooperation between Member States relating to the Common European Asylum System.

In its **Policy Plan on Asylum** adopted in 2008, the Commission announced the setting up of such an office in the institutional form of a regulatory agency, as was expressly envisaged by the Commission in its communication on regulatory agencies (COM(2008)135).

In September 2008, the European Council adopted the 'European Pact on Immigration and Asylum' and expressly agreed to establish a European support office.

IMPACT ASSESSMENT: in an ex-ante evaluation, the Commission assessed the following policy options: (i) keeping the status quo; (ii) strengthening the European Commission's unit; (iii) creating a new network; (iv) creating a new regulatory agency (non decision-making body); (v) incorporating the support structure into an existing regulatory agency (e.g. the Fundamental Rights Agency or FRONTEX); (vi) creating a Common EU Support Authority (decision-making regulatory agency - in the policy plan on asylum). The preferred option was the creation of a regulatory agency. Though it is the most expansive solution in financial terms, the creation of the support office under the form of a regulatory agency appears to be the preferred option, as it appears to have higher legal and political feasibility than the other institutional options. In particular, the office will have full support from the European Parliament and Member States.

CONTENT: the Commission proposes the establishment of a European Asylum Support Office in order to help to improve the implementation of the Common European Asylum System and to strengthen practical cooperation among Member States on asylum. The work of the Agency will help to improve the way Community rules on asylum are implemented and applied throughout the EU.

The agency will **not have decision-making powers** and will engage in support activities that act as an incentive to practical cooperation on asylum, such as recommendations, referral to scientific authority, networking and pooling of good practice, evaluation of the application and implementation of rules, etc.

Tasks: the Office's terms of reference will focus on three major tasks:

1. **supporting practical cooperation on asylum:** in this area, the Office will concentrate on exchanges of good practice, information on the country of origin, support for cooperation between Member States under the Dublin Regulation, support for relocation, support for translation and interpreting, support for training, technical support and support in external matters;
2. **supporting Member States under particular pressure** (namely, geographical or demographic situations or situations characterised by sudden arrivals of large numbers of third-country nationals): the Office will provide for the gathering and analysis of information and for actions to support

Member States under pressure (including an early warning system, initial assessment of asylum requests, speedy establishment of appropriate reception facilities by Member States subject to pressure, **coordination of asylum support teams**, the operating procedures for which are specified below);

3. **contributing to the implementation of the Common European Asylum System:** the functions of the Office in this area relate to the gathering and exchange of information, reports and other Office documents (including the annual report on the asylum situation in the EU and general documents on the implementation of Community instruments in the field of asylum, such as guidelines and operating manuals).

Asylum support teams: one of the most important tasks of the Office will be to coordinate the action of asylum support teams made up of national asylum experts who will provide operational support to Member States subject to strong pressures on their asylum systems. The Office may organise the necessary technical and operational assistance to a Member State or States subject to particular pressure that so requests, and coordinate the deployment, for a limited time, of one or more asylum support teams in the territory of the requesting Member State for the appropriate period of time.

The asylum support teams shall provide in particular expertise about interpreting services, information on the countries of origin and knowledge of the handling and management of asylum cases. The proposal for a regulation lists, in particular, the technical terms for the mobilisation of these teams (circumstances under which they will be called upon to intervene and the composition of teams of experts) as well as the procedure for deciding on deployment.

The experts who make up the support teams will be selected on the basis of an 'Asylum Intervention Pool', made up of national experts. Moreover, the proposal sets out in detail the conditions for deployment of the asylum support teams (via an 'operating plan' for deployment).

Cooperation with UNHCR and other agencies: the proposal also provides for cooperation between the Office and external actors such as the UNHCR, which will be fully involved in the work of the Office given its expertise in this area. The Office will work with other Community agencies, such as the European Agency for Fundamental Rights.

Administrative and management structure: the Office will be run by a Management Board composed of representatives of the Member States and the Commission, and by an executive committee. The Executive Director of the Office, appointed by the Management Board on a proposal from the Commission, will be in charge of its day-to-day management. The Office will also be made up of a Consultative Forum (place for exchanges with relevant NGOs and civil society). Lastly, the proposal for a regulation sets out the operating procedures of the Office (standard provisions in a founding act of a regulatory agency).

New agency's headquarters: the decision on the agency's headquarters will be taken by the Heads of State and Government

Evaluation: the Regulation provides for an evaluation of the Office not later than five years after the entry into force of the Regulation. This evaluation will cover the Office's impact on practical cooperation on asylum and on the Common European Asylum System. It shall, in particular, address the possible need to modify or extend the tasks of the Office (including the financial implications). It will also look at whether the management structure is appropriate for carrying out the Office's tasks.

FINANCIAL IMPLICATIONS: the financial statement annexed to the proposal specifies that the Office will have a financial envelope of **EUR 40.25 million for the period 2010-13** (heading 3a - Financial Perspectives). In an effort to streamline expenditure, the Commission considers that some of the budgetary resources currently allocated to the European Refugee Fund (ERF) for Community actions should be

transferred to the Office so as to avoid having various legal instruments providing parallel financing for similar asylum activities.