




Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	2009/0027(COD) Procedure completed
Establishing a European Asylum Support Office	
Subject 7.10.06 Asylum, refugees, displaced persons; Asylum, Migration and Integration Fund (AMIF) 8.40.08 Agencies and bodies of the EU	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	LIBE Civil Liberties, Justice and Home Affairs		16/03/2010
		Verts/ALE LAMBERT Jean	
	Former committee responsible		
	LIBE Civil Liberties, Justice and Home Affairs		21/01/2009
		Verts/ALE LAMBERT Jean	
	Former committee for opinion		
	AFET Foreign Affairs	The committee decided not to give an opinion.	
	DEVE Development	The committee decided not to give an opinion.	
	BUDG Budgets		20/09/2004
		PSE HAUG Jutta	
Council of the European Union	Council configuration	Meeting	Date
	Justice and Home Affairs (JHA)	2998	25/02/2010
	Justice and Home Affairs (JHA)	2979	30/11/2009
	General Affairs	2970	26/10/2009
	Justice and Home Affairs (JHA)	2962	21/09/2009
	Justice and Home Affairs (JHA)	2946	04/06/2009
	Justice and Home Affairs (JHA)	2927	26/02/2009
European Commission	Commission DG	Commissioner	
	Justice and Consumers	REDING Viviane	

Key events			
26/02/2009	Debate in Council	2927	Summary
09/03/2009	Committee referral announced in Parliament, 1st reading		
27/04/2009	Vote in committee, 1st reading		Summary
29/04/2009	Committee report tabled for plenary, 1st reading	A6-0279/2009	

06/05/2009	Debate in Parliament		
07/05/2009	Results of vote in Parliament		
07/05/2009	Decision by Parliament, 1st reading	T6-0379/2009	Summary
04/06/2009	Debate in Council	2946	Summary
21/09/2009	Debate in Council	2962	Summary
30/11/2009	Debate in Council	2979	Summary
11/03/2010	Committee referral announced in Parliament, 2nd reading		
08/04/2010	Vote in committee, 2nd reading		Summary
20/04/2010	Debate in Parliament		
18/05/2010	Decision by Parliament, 2nd reading	T7-0158/2010	Summary
19/05/2010	Final act signed		
19/05/2010	End of procedure in Parliament		
29/05/2010	Final act published in Official Journal		

Technical information

Procedure reference	2009/0027(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Legal basis	Treaty on the Functioning of the EU TFEU 078-p2; Treaty on the Functioning of the EU TFEU 074
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/7/02430

Documentation gateway

Legislative proposal		COM(2009)0066	18/02/2009	EC	Summary
Document attached to the procedure		SEC(2009)0153	18/02/2009	EC	
Document attached to the procedure		SEC(2009)0154	18/02/2009	EC	
Committee draft report		PE421.403	16/03/2009	EP	
Amendments tabled in committee		PE423.710	02/04/2009	EP	
Committee opinion	BUDG	PE423.779	23/04/2009	EP	
Committee report tabled for plenary, 1st reading/single reading		A6-0279/2009	29/04/2009	EP	
Text adopted by Parliament, 1st reading/single reading		T6-0379/2009	07/05/2009	EP	Summary
Commission response to text adopted in plenary		SP(2009)3616	07/07/2009	EC	

Council statement on its position		06528/2010	23/02/2010	CSL	
Council position		16626/2/2009	25/02/2010	CSL	Summary
Commission communication on Council's position		COM(2010)0079	05/03/2010	EC	Summary
Committee draft report		PE439.833	11/03/2010	EP	
Committee recommendation tabled for plenary, 2nd reading		A7-0118/2010	12/04/2010	EP	
Text adopted by Parliament, 2nd reading		T7-0158/2010	18/05/2010	EP	Summary
Draft final act		00010/2010	19/05/2010	CSL	

Additional information

National parliaments	IPEX
European Commission	EUR-Lex

Final act

[Regulation 2010/439](#)
[OJ L 132 29.05.2010, p. 0011](#) Summary

Establishing a European Asylum Support Office

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.

Establishing a European Asylum Support Office

The Council held a first exchange of views on a new proposal for establishing a European asylum support office, in the context of the development of a common European asylum system. The debate focused on key aspects of the proposal and provided guidance in order to continue examination under the Council-Parliament codecision procedure.

The main tasks of the European asylum support office would be the following:

- to facilitate, coordinate and improve cooperation on asylum matters between EU countries, thereby improving international protection for asylum seekers;
- to assist EU governments in comparing good practices and organising training at EU level in order to develop a more consistent and transparent asylum policy in the EU;
- to coordinate teams of national experts who can be deployed at the request of any EU country facing a heavy influx of refugees;
- to provide scientific and technical assistance in cooperation with national authorities and the UN High Commission for Refugees;
- to increase practical cooperation on asylum matters between EU and third countries.

In October 2008 when adopting the European Pact on immigration and asylum (see Council Doc [13440/08](#), the European Council requested to "establish in 2009 a European asylum support office with the task of facilitating the exchange of information, analysis and experience between Member States and developing practical cooperation between the administrations in charge of examining asylum applications". The proposal responds to this request.

Establishing a European Asylum Support Office

The Committee on Civil Liberties, Justice and Home Affairs adopted the report drawn up by Jean LAMBERT (Greens/ALE, UK) amending, under the first reading of the codecision procedure, the proposal for a regulation of the European Parliament and of the Council establishing a European Asylum Support Office.

The main amendments were as follows:

Financing: MEPs underline that the financing of the Office shall be subject to an agreement by the budgetary authority as set out in Point 47 of the [Interinstitutional Agreement](#) (IIA) of 17 May 2006 on budgetary discipline and sound financial management (through an agreement between the two branches of the budget authority).

Limitation of power: MEPs clearly stipulate that the Office shall not have any direct or indirect powers in relation to the taking of decisions by Member State authorities on individual applications for international protection.

Clarification as regards the tasks of the Office: MEPs aim to clarify the tasks of the Office. In particular, it should: (i) gather relevant, reliable, accurate and up-to date information on the countries of origin of asylum seekers and persons applying for international protection in a transparent and impartial manner, making use of all relevant sources of information, including governmental and non-governmental organisations, international organisations and EU institutions; (ii) manage and develop a portal for gathering information on countries of origin and its maintenance, as well as the ensuring of its accessibility and transparency; (iii) ensure the impartial analysis of country-of-origin information and the drafting of reports on countries of origin moving towards common assessment criteria.

Mandatory reallocation of beneficiaries of international protection in another Member State: MEPs consider that the reallocation ?on a voluntary basis? of beneficiaries of international protection from Member States with specific and disproportionate pressures on their national asylum systems will not in any way be of help in showing solidarity between Member States. Therefore, they propose to delete the terms ?on a voluntary basis? from the proposed text. MEPs state clearly that should propose a binding solidarity mechanism to reallocate beneficiaries of international protection from Member States, in consultation with the UNHCR.

Strengthen the principle of solidarity between Member States: MEPs state that the Office shall coordinate exchanges of information and all other action taken on the resettlement of refugees within the European Union, taking into consideration the principles of solidarity and of burden sharing.

Cooperation with UNHCR and relevant NGOs: MEPs consider that the Office should establish and develop in close cooperation with UNHCR and relevant NGOs training for members of all national administrations and courts, and national services or NGOs responsible for asylum matters in the Member States. For topics where UNHCR guidelines already exist, these should serve as the starting point for practical cooperation to narrow the gaps in practice.

European asylum curriculum: in addition, the Office shall manage and develop a European asylum curriculum which shall, as a minimum, provide for training on international refugee and human rights law and standards and the EU asylum acquis.

Early warning system: MEPs call for the setting up of an early warning system to notify the Member States and the Commission of any influx of applicants for international protection.

Report: the Office shall draw up an annual report on the situation of asylum in the European Union. It shall be presented to the European Parliament and the Commission. MEPs request that the Office, at the request of the European Parliament, draft reports on specific aspects of the implementation of the EU asylum acquis relating to international protection.

Expertise from the Consultative Forum: MEPs propose that where Member States are unable to provide the expertise deemed to be essential for its operation, the Office may take the necessary measures to source such expertise from relevant experts and organisations, drawing on the expertise of the Consultative Forum. MEPs also note that local authorities have an important role and expertise in the field of asylum policy and shall be included in the Consultative Forum.

Appointment of the Executive Director: MEPs note that strengthening Parliamentary involvement in the appointment procedure would ensure greater democratic accountability. This kind of involvement would not constitute a contradiction with the European Parliament's role in budgetary oversight as such a procedure is already in place in the Fundamental Rights Agency (appointed on the basis of his or her personal merits, experience in the field of asylum and administrative and management skills, hearing before the European Parliament and the Council, etc). This brings the role of the European Parliament in the possible extension of the Director's term into line with the terms for the initial appointment.

Respecting the Financial Regulation: MEPs consider that a reference to the basic rule of the financial regulation concerning the establishment of decentralised agencies under which the Office is to be established should be added in the article concerning its legal definition and status.

Transparency: MEPs stipulate that the Office shall develop good administrative practices in order to ensure the highest possible level of transparency concerning its activities, in particular by ensuring relevant documents are available to a wider public.

Establishing a European Asylum Support Office

The European Parliament adopted by 467 votes to 42, with 18 abstentions, a legislative resolution amending, under the first reading of the codecision procedure, the proposal for a regulation of the European Parliament and of the Council establishing a European Asylum Support Office.

The main amendments are as follows:

Financing: the Parliament underlines that the financing of the Office shall be subject to an agreement by the budgetary authority as set out in Point 47 of the [Interinstitutional Agreement](#) (IIA) of 17 May 2006 on budgetary discipline and sound financial management (through an agreement between the two branches of the budget authority).

Limitation of power: the Parliament clearly stipulates that the Office shall not have any direct or indirect powers in relation to the taking of decisions by Member State authorities on individual applications for international protection.

Clarification as regards the tasks of the Office: the Parliament aims to clarify the tasks of the Office. In particular, it should: (i) gather relevant, reliable, accurate and up-to date information on the countries of origin of asylum seekers and persons applying for international protection in a transparent and impartial manner, making use of all relevant sources of information, including governmental and non-governmental organisations, international organisations and EU institutions; (ii) manage and develop a portal for gathering information on countries of origin and its maintenance, as well as the ensuring of its accessibility and transparency; (iii) ensure the impartial analysis of country-of-origin information and the drafting of reports on countries of origin moving towards common assessment criteria.

Mandatory reallocation of beneficiaries of international protection in another Member State: the Parliament considers that the reallocation ?on a voluntary basis? of beneficiaries of international protection from Member States with specific and disproportionate pressures on their national asylum systems (due in particular to their geographical or demographic situation) will not in any way be of help in showing solidarity between Member States. Therefore, it proposes to delete the terms ?on a voluntary basis? from the proposed text.

Binding solidarity mechanism: the Parliament states that the Commission should propose a binding solidarity mechanism to reallocate

beneficiaries of international protection from Member States with specific and disproportionate pressures on their national asylum systems, in consultation with the UNHCR. On the same lines, the Parliament considers that exchanges of information and all other action taken on the resettlement of refugees within the European Union should be implemented, taking into consideration the principles of solidarity and of burden sharing.

Cooperation with UNHCR and relevant NGOs: the plenary states that the Office shall establish and develop, in close cooperation with UNHCR and relevant NGOs, training for members of all national administrations and courts, and national services or other entities formally used in the asylum procedure in the Member States. The Parliament also suggests that the EU guidelines and operating manuals that the Office may draft, at the request of the Commission, should draw on the work already carried out in this area by UNHCR in order to ensure consistency with international standards and narrow the gaps in practice.

European asylum curriculum: in addition to the aforementioned tasks, the Office shall manage and develop a European asylum curriculum which shall, as a minimum, provide for training on international refugee and human rights law and standards and the EU asylum acquis.

Early warning system: the Parliament calls for the setting up of an early warning system to notify the Member States and the Commission of any influx of applicants for international protection.

Asylum support teams: by way of several amendments adopted in plenary, the Parliament requests that Member State or States subject to particular pressure may request the Office for the deployment of an asylum support team. The requesting Member State or States shall specify in particular a description of the situation, any objectives and estimated deployment requirements. In response to such a request, the Office may coordinate the necessary technical and operational assistance to a Member State or States and the deployment, for a limited time, of the asylum support team in the territory of the requesting Member State on the basis of an operating plan as referred to in the regulation. The asylum support teams shall provide expertise as agreed in the operating plan, in particular expertise about interpreting services, information on the countries of origin and knowledge of the handling and management of asylum cases. Moreover, the plenary includes a number of new provisions on the civil and criminal liability of these asylum support teams.

Consultative Forum: by way of an amendment adopted in plenary, the Parliament revised the paragraph on the Consultative Forum. The Office shall cooperate closely with civil society organisations and relevant competent bodies operating in the field of asylum policy at local, regional, national, European or international level and shall set up a Consultative Forum for this purpose. The plenary states that the Consultative Forum shall constitute a mechanism for the exchange of information and pooling of knowledge and shall be open to all competent stakeholders. UNHCR shall be a member of the Consultative Forum ex officio. In addition to the tasks already assigned to the Consultative Forum by the proposal for a regulation, MEPs suggest that it should: (i) make suggestions to the Management Board on the annual work programme; (ii) provide feedback to the Management Board and suggest measures as a follow-up to the annual report and the annual report on the asylum situation in the European Union; (iii) communicate the conclusions and recommendations of conferences, seminars and meetings relevant to the work of the Office to the Executive Director and the Management Board. The Consultative Forum shall meet at least twice a year. Lastly, where Member States are unable to provide the expertise deemed to be essential for its operation, the Office may take the necessary measures to source such expertise from relevant experts and organisations, drawing on the expertise of the Consultative Forum.

Appointment of the Executive Director: the Parliament notes that strengthening Parliamentary involvement in the appointment procedure would ensure greater democratic accountability. This kind of involvement would not constitute a contradiction with the European Parliament's role in budgetary oversight as such a procedure is already in place in the Fundamental Rights Agency (appointed on the basis of his or her personal merits, experience in the field of asylum and administrative and management skills, hearing before the European Parliament and the Council, etc). This brings the role of the European Parliament in the possible extension of the Director's term into line with the terms for the initial appointment.

Respecting the Financial Regulation and relevant provisions on combating fraud: the Parliament calls on the Office to respect the fundamental provisions of the Financial Regulation applicable to decentralised EU agencies. Moreover, the plenary introduces a number of new provisions on compliance with rules on combating fraud and corruption.

Report: the Office shall draw up an annual report on the situation of asylum in the European Union. It shall be presented to the European Parliament and the Commission. The Parliament requests that the Office, at the request of the European Parliament, draft reports on specific aspects of the implementation of the EU asylum acquis relating to international protection.

Transparency: lastly, the Parliament calls on the Office to develop good administrative practices in order to ensure the highest possible level of transparency concerning its activities, in particular by ensuring relevant documents are available to a wider public.

Establishing a European Asylum Support Office

In public deliberation, the Council held a policy debate on the state of negotiations regarding five legislative acts concerning asylum. The Council welcomed the progress already made and instructed its preparatory bodies to continue the examining the proposals taking account of the European Parliament's opinion, delivered on 7 May, as well as the views expressed by delegations in the discussion.

The five proposals involve amendments to the so called "Dublin" regulation, the EURODAC regulation, and the reception conditions directive as well as a proposal for the establishment of a European asylum support office and a related amendment of the European refugee fund.

These measures stem from the commitments undertaken in the European Pact on Immigration and Asylum adopted by the European Council in October 2008, with the purpose to complete the Common European Asylum System provided for in the Hague Programme.

Over the last few months, the Council preparatory bodies have carried out intensive discussions on the five proposals. A first reading of the text has been completed in all cases.

On 7 May, the European Parliament adopted legislative resolutions setting out amendments to the Commission proposals under the Council-Parliament codecision procedure. Examination of these amendments is now underway.

Establishing a European Asylum Support Office

At the request of Germany, the Council had a general debate on the principles which should underlie EU asylum legislation.

Ministers made reference to legislative proposals already under discussion as well as two proposals which the Commission is expected to table shortly. These upcoming proposals will deal with qualification and status as a refugee or a person otherwise in need of international protection and with procedures for granting and withdrawing refugee status.

Ministers were confident that further work on the legislative proposals would benefit from their discussion and the evaluation of how the current European legislation on asylum issues is

implemented. The two outstanding proposals mentioned above will complement five other legislative acts in the area of asylum which are already under negotiation: the Dublin regulation, the EURODAC regulation, the reception conditions directive, the European Asylum Support Office and the amendment of the European Refugee Fund.

Establishing a European Asylum Support Office

The Council discussed the state of play of the Common European Asylum System (CEAS). In particular, it took note of the agreement reached between the European Parliament and the Council on the establishment of the European Asylum Support Office (EASO) and the related changes to the [European Refugee Fund \(ERF\)](#). This agreement opens the way for the relevant legislative instruments to be adopted in the near future.

Following a lunch discussion, the Presidency reported that agreement had been reached on Valetta, Malta as the seat of EASO. This agreement will be formalised in the near future.

The support office is aimed at improving the implementation of the Common European Asylum System, strengthening practical cooperation among member states on asylum and as providing and coordinating operational support to member states facing specific and disproportionate pressures on their national asylum systems. The ERF needs to be amended as the office will take over responsibility for certain operations that have until now been financed by the refugee fund.

Establishing a European Asylum Support Office

In line with the provisions of the Joint Declaration on practical agreements for the new co-decision procedure, representatives of Council, Parliament and the Commission engaged in contacts with a view to concluding an agreement at the stage of the Council's position at first reading.

With a view to reconciling the position of Parliament and Council, the Council adopts, both on the proposals for the European Asylum Support Office (EASO) Regulation and the proposals amending the [European Refugee Fund \(ERF\)](#) Decision, its positions at first reading comprising of the following key modifications to the Commission proposal:

Assistance to Member States subject to particular pressure: the Council amends the Commission proposal with a view to clarifying the conditions underlying assistance of the Office to Member States subject to particular pressure, in particular assistance provided by asylum support teams:

- the Council specifies the tasks of the asylum support teams and the rules for deploying experts to such teams;
- it clarifies that the responsibility for requesting the assistance of asylum support teams lies with the Member State subject to particular pressure;
- taking up Parliament's amendment, it is specified that the expertise that is to be delivered by the asylum support teams is to be agreed upon in the operating plan;
- the Office will be responsible for analysing data on any sudden arrival of large numbers of third country nationals that might cause particular pressure on the reception and asylum system and for ensuring the rapid exchange of relevant information amongst Member States and the Commission, inter alia by making use of existing early warning systems or, if necessary, its own dedicated system.

Solidarity: with regard to the role of the Office concerning relocation of beneficiaries of international protection between Member States, the outcome of the informal contacts between Council and Parliament has been that development of intra community solidarity shall be carried out on an agreed basis, both between Member States and with the consent of the individual concerned. Moreover, where appropriate, a Member State shall consult the United Nations High Commissioner for Refugees (UNHCR).

Similarly, as regards the resettlement of beneficiaries of international protection from third countries to Member States, the Office will be responsible for coordinating exchanges of information and other actions on resettlement taken by Member States with a view to meeting their protection needs and showing solidarity with their host countries.

Moreover, it is specified in the Council's position at first reading that the evaluation of the achievements of the Office will have to take due account of the progress made, including the assessment whether additional measures are necessary to ensure effective solidarity and the sharing of responsibilities with Member States subject to particular pressure.

Appointment and accountability of the Executive Director: as a result of the informal contacts between Council and Parliament, the Council's position at first reading provides for a selection procedure for the post of Executive Director entailing the necessary conditions for a transparent, efficient and timely appointment of the most suitable candidate while ensuring involvement of the Commission, the Member States and the European Parliament in an institutionally balanced manner. Furthermore, new reporting duties enhance the accountability of the Executive Director, in particular in relation to the European Parliament. Lastly, Council, Commission and Parliament agree on an Interinstitutional Statement on the interinstitutional working group which is in the process of assessing the coherence, effectiveness and accountability of regulatory agencies.

Administrative and management structure of the Office: in order to ensure that the Office's resources will be targeted at its core task of strengthening practical cooperation among Member States, the administrative and management structure of the Office consists of the Management Board and the Executive Director. If needed, the Management Board may establish an Executive Committee for assisting the

Management Board and the Executive Director.

Role civil society and UNHCR: the Council considers it important to maintain a close dialogue between the Office and civil society. In that light, the Council retains the Commission proposal to set up a Consultative Forum, while detaching it from the administrative and management structure of the Office. The forum shall meet at least once a year. Furthermore, the Council accepts the Parliament's amendments concerning the role of civil society in the Office, in particular by specifying that representatives of civil society are involved in developing training and may be invited in working parties.

A particular role is envisaged for UNHCR:

- a representative of the UNHCR can take part as an observer in the Management Board, unless specific points are discussed which could give rise to a conflict of interest;
- when drawing up technical documents that make reference to points of international refugee law, the Office shall give due regard to relevant UNHCR guidelines;
- the Council's position at first reading provides that the Management Board decides on working arrangements between the Office and the UNHCR including their budgetary implications, and that it may decide to make available financial resources to cover the expenses of the UNHCR for activities not provided in those working arrangements.

European Parliament amendments: Council's response to 19 amendments is set out above in relation to the key issues. In addition, Council accepts in whole, in part or in principle a further 16 amendments. The Council does not accept 6 amendments on the following grounds:

- it is not appropriate to refer to the need to ensure compliance with international and Community legal standards;
- as regards the role of the European Parliament in the adoption of technical documents on the implementation of Community asylum instruments, it is sufficient that the Office, when preparing the adoption of such documents, is obliged to take due account of views expressed by Parliament;
- it is considered unnecessary to include a provision specifying that the Office may take the necessary measures to engage expertise drawing on the Consultative Forum;
- in the EASO Regulation wording should be used which usually is used in legislation establishing an agency.

The Council's states that its position at first reading reflects the compromise reached in negotiations between the Council and the European Parliament, facilitated by the Commission. Once the EASO Regulation and the ERF Decision are adopted, the way will be paved for the early establishment of the European Asylum Support Office which will be of key importance.

Establishing a European Asylum Support Office

This Commission communication concerns the position adopted by the Council with a view to the adoption of a proposal for a Regulation of the European Parliament and of the Council establishing a [European Asylum Support Office](#) and a proposal for a Decision of the European Parliament and of the Council amending Decision 573/2007/EC of the European Parliament and of the Council of 23 May 2007 establishing the European Refugee Fund for the period 2008 to 2013 by removing funding for certain Community actions and altering the limit for funding such actions.

The Council's position is the result of inter-institutional negotiations, following the Commission's proposal of 18 February 2009 and the adoption by the European Parliament of

its opinion at first reading 6 May 2009. Informal and technical meetings have resulted in compromise on a number of outstanding issues. Neither the European Parliament nor the

Council amended the proposal for a Decision on the funding of the Office.

The main points which were negotiated and agreed upon are set out below.

- the solidarity mechanisms supported by the Office (relocation and resettlement) were the subject of a compromise based on neutral wording to allow the Office to support all present or future mechanisms effectively;
- a compromise was reached regarding the appointment of the Executive Director of the Office, by which Parliament was accorded a significant role in the appointment by allowing it to adopt an opinion after hearing the candidate designated by the Management Board and requiring the Management Board to inform Parliament of the manner in which its opinion was taken into account in the definitive appointment of the Executive Director. Parliament wanted this across-the-board provision on institutional status to be fully in line with the work currently under way in the Interinstitutional Working Group on Regulatory Agencies. As a consequence, an inter-institutional declaration was adopted;
- the Council and the European Parliament have reached an agreement which allows the United Nations High Commission for Refugees (UNHCR) to participate in the work and to allow the Office to benefit fully from UNHCR's expertise in the course of its future work;
- at Parliament's request, a compromise was found to associate civil society fully with the work of the Office by means of a Consultative Forum, the operational rules for which were laid down.

Following these negotiations, Coreper reached agreement on the text on 11 November 2009. On 16 November 2009 the Chairman of the Committee on Civil Liberties, Justice and Home Affairs sent a letter to the Presidency confirming the agreement of the rapporteurs and the rapporteurs for opinion on the text approved by Coreper and on the Interinstitutional statement annexed to it, and stating that if these texts were formally transmitted to the European Parliament as the Council's position, he would recommend that the Members of the LIBE committee and subsequently the plenary session accept them without amendments. Coreper reached a political agreement on this basis on 20 November 2009.

The Council's position and the interinstitutional statement annexed to it meet the aims of the Commission's initial proposal. The Commission therefore supports the text.

Establishing a European Asylum Support Office

The Committee on Civil Liberties, Justice and Home Affairs adopted the recommendation for second reading contained in the report by Jean LAMBERT (Greens/ALE, UK) on the Council position at first reading for adopting a regulation of the European Parliament and of the Council establishing a European Asylum Support Office.

The committee recommends that the European Parliament approves the Council's position.

Establishing a European Asylum Support Office

The European Parliament adopted a legislative resolution on the Council position at first reading for adopting a regulation of the European Parliament and of the Council establishing a European Asylum Support Office. It approved the Council's position. It notes that the act is adopted in accordance with the position.

Establishing a European Asylum Support Office

PURPOSE: to establish a European Asylum Support Office.

LEGISLATIVE ACT: Regulation (EU) No 439/2010 of the European Parliament and of the Council establishing a European Asylum Support Office.

CONTENT: this Regulation hereby establishes a European Asylum Support Office (the Support Office) in order to help improve the implementation of the Common European Asylum System (the CEAS), to strengthen practical cooperation among Member States on asylum and to provide and/or coordinate the provision of operational support to Member States subject to particular pressure on their asylum and reception systems.

In order to best fulfil its mandate, the Support Office should be independent in technical matters and should enjoy legal, administrative and financial autonomy. To that end, the Support Office should be a body of the Union having legal personality and exercising the implementing powers conferred upon it by this Regulation.

The Support Office should work in close cooperation with Member States' asylum authorities, with the Commission as well as with the UN High Commissioner for Refugees (the UNHCR) and, where appropriate, with relevant international organisations in order to benefit from their expertise and support.

It should be noted that the Support Office should have no direct or indirect powers in relation to the taking of decisions by Member States' asylum authorities on individual applications for international protection.

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

1) Supporting practical cooperation on asylum: the Office shall organise, promote and coordinate activities enabling the exchange of information and the identification and pooling of best practices in asylum matters between the Member States. More specifically, the Office shall be responsible for activities relating to information on countries of origin, in particular the analysis of information and the drafting of reports. The analysis of information on countries of origin shall not purport to give instructions to Member States about the grant or refusal of applications for international protection. It shall be simply an opinion presented under a common format and using a common methodology.

The Support Office shall also ensure the following tasks:

- supporting relocation of beneficiaries of international protection within the Union: for Member States which are faced with specific and disproportionate pressures on their asylum and reception systems, due in particular to their geographical or demographic situation, the Support Office shall promote, facilitate and coordinate exchanges of information and other activities related to relocation within the Union. Relocation within the Union shall be carried out only on an agreed basis between Member States and with consent of the beneficiary of international protection concerned and, where appropriate, in consultation with the UNHCR;
- support for training: in particular it shall establish and develop training available to members of all national administrations and courts and tribunals, and national services responsible for asylum matters in the Member States. Training shall be either general, specific or thematic;
- support for the external dimensions of the CEAS: the Support Office shall, in agreement with the Commission, coordinate the exchange of information and other action taken on issues arising from the implementation of instruments and mechanisms relating to the external dimension of the CEAS (such as resettlement or other technical aspects with a view to promoting and assisting capacity building in the third countries' own asylum and reception systems and implementing regional protection programmes).

2) Supporting Member States under particular pressure: the Support Office shall coordinate and support common action assisting asylum and reception systems of Member States subject to particular pressure which places exceptionally heavy and urgent demands on their reception facilities and asylum systems. Such pressure may be characterised by the sudden arrival of a large number of third-country nationals who may be in need of international protection and may arise from the geographical or demographic situation of the Member State. The Support Office should support the development of solidarity within the Union to promote a better relocation of beneficiaries of international protection between Member States, while ensuring that asylum and reception systems are not abused.

In this context, the Support Office shall analyse data on any sudden arrival of large numbers of third country nationals, which may cause particular pressure on asylum and reception systems and ensure the rapid exchange of relevant information amongst Member States and the Commission. The Support Office shall make use of existing early warning systems and mechanisms and, if necessary, set up an early warning system for its own purposes.

At the request of the Member States concerned, the Support Office shall coordinate actions to support Member States, in order to:

- facilitate an initial analysis of asylum applications under examination by the competent national authorities;

- ensure that appropriate reception facilities can be made available by the Member States subject to particular pressure, in particular emergency accommodation, transport and medical assistance;
- establish asylum support teams, the operating arrangements of which are set out below.

3) Contribution to the implementation of the Common European Asylum System (CEAS): in order to contribute to the implementation of the CEAS, the Support Office may create factual, legal and case-law databases on national, Union and international asylum instruments making use, inter alia, of existing arrangements. Without prejudice to the activities of the Support Office, no personal data shall be stored in such databases, unless such data has been obtained by the Support Office from documents that are publicly accessible.

The Support Office shall draw up an annual report on the situation of asylum in the Union, evaluate the results of activities carried out under this Regulation and make a comprehensive comparative analysis of them with the aim of improving the quality, consistency and effectiveness of the CEAS. The Support Office may adopt technical documents on the implementation of the asylum instruments of the Union, including guidelines and operating manuals. The documents shall not purport to give instructions to Member States about the grant or refusal of applications for international protection.

Asylum support teams: at the request of one or more Member States subject to particular pressure, the Support Office may request the deployment of an asylum support team. The requesting Member State or Member States shall provide, in particular a description of the situation, indicate the objectives of the request for deployment and specify the estimated deployment requirements. In response to such a request, the Support Office may coordinate the necessary technical and operational assistance to the requesting Member State or Member States and the deployment, for a limited time, of an asylum support team in the territory of that Member State or those Member States on the basis of an operating plan.

To ensure the deployment of a support team, Member States should contribute to the Asylum Intervention Pool via a national expert pool on the basis of defined profiles and propose experts corresponding to the required profiles.

As regards the deployment, the home Member State shall retain its autonomy as regards the selection of the number and the profiles of the experts (national pool) and the duration of their deployment. Member States shall make those experts available for deployment at the Support Office's request unless they are faced with a situation substantially affecting the discharge of national duties.

The Executive Director and the requesting Member State shall agree on an operating plan setting out in detail the conditions for deployment of the asylum support teams. The operating plan shall include a description of the situation, with the modus operandi and objectives of the deployment, including the operational objective.

In addition, the Regulation lays down measures concerning:

- civil liability and criminal liability: where members of an asylum support team are operating in a host Member State, that Member State shall be liable in accordance with its national law for any damage caused by them during their operations. Where such damage is caused by gross negligence or wilful misconduct, the host Member State may approach the home Member State in order to have any sums it has paid to the victims or persons entitled on their behalf reimbursed by the home Member State. As regards criminal liability, members of an asylum support team shall be treated in the same way as officials of the host Member State with regard to any criminal offences that might be committed against them or by them;
- designation of contact points: each Member State shall designate a national contact point for communication with the Support Office on all matters pertaining to the asylum support teams. The Executive Director shall designate one or more Support Office experts to act as the Union contact point for coordination of deployments;
- costs: where Member States make their experts available for deployment to asylum support teams, the Support Office shall meet costs relating to travel; vaccinations; insurance cover; health care; experts' fees.

Organisation of the Support Office: the administrative and management structure of the Support Office shall comprise:

- a Management Board;
- an Executive Director,
- the staff of the Support Office.

The administrative and management structure of the Support Office may comprise an Executive Committee. Such a Committee shall consist of eight members appointed from among the members of the Management Board amongst whom one of the Commission members of the Management Board. At the request of the Executive Committee, UNHCR representatives or any other person whose opinion might be of interest may attend meetings of the Executive Committee without the right to vote.

The term of office of members of the Management Board shall be three years. That term shall be renewable. On the expiry of their term of office or in the event of their resignation, members shall remain in office until their appointments are renewed or until they are replaced. The Executive Director shall be appointed for a term of five years. Before appointment, the candidate selected by the Management Board shall be invited to make a statement before the competent committee or committees of the European Parliament and answer questions put by its or their members. After that statement, the European Parliament may adopt an opinion setting out its view relating to the selected candidate. The Executive Director should also present the annual report to the European Parliament.

Consultative Forum: the Support Office shall maintain a close dialogue with relevant civil society organisations and relevant competent bodies operating in the field of asylum policy at local, regional, national, European or international level and shall set up a Consultative Forum for this purpose. It shall constitute a mechanism for the exchange of information and pooling of knowledge and shall ensure there is a close dialogue between the Support Office and relevant stakeholders. The UNHCR shall be a member of the Consultative Forum ex officio.

Budget: the Support Office's revenue shall comprise:

- a contribution from the Union entered in the general budget of the European Union;
- any voluntary contribution from the Member States;
- charges for publications and any service provided by the Support Office;
- a contribution from the associate countries.

In line with the functioning of all the Union's agencies, the Office shall present its provisional accounts in the context of the annual discharge procedure. The Office's expenditure shall include staff remuneration, administrative and infrastructure expenses, operating costs. The Support Office shall apply applicable legislation as regards corruption and anti-fraud measures.

Evaluation and review: no later than 19 June 2014, the Support Office shall commission an independent external evaluation of its achievements and progress made. It shall, in particular, address the possible need to modify the mandate of the Support Office, including the financial implications of any such modification and shall also examine whether the management structure is appropriate for carrying out the Support Office's duties.

Cooperation: in addition to cooperation with the UNHCR, the Support Office should cooperate with the Frontex Agency, the Fundamental Rights Agency and other bodies of the European Union as well as international organisations in the framework of the working arrangements concluded with those bodies. It should also cooperate with Denmark and other third countries and associate countries such as Iceland, Liechtenstein, Norway and Switzerland.

Headquarters agreement and operating conditions: an agreement should be laid down on the rules applicable in this State to the Executive Director, members of the Management Board, Support Office staff. The host Member State shall provide the best possible conditions to ensure the proper functioning of the Support Office.

Entry into force and start of the Support Office's activities: the Regulation shall enter into force on 18 June 2010. The Support Office shall become fully operational by 19 June 2011. The Commission shall be responsible for the establishment and initial operation of the Support Office until it has the operational capacity to implement its own budget.