

# Procedure file

Basic information	
<p>COD - Ordinary legislative procedure (ex-codecision procedure) <a href="#">2016/0131(COD)</a> Regulation</p>	<p>Procedure completed</p> <p>Due to procedural and technical challenges in view of the second proposal presented by the Commission, the LIBE report cannot be displayed in the Documentation Gateway below. The LIBE committee voted on 10/12/2018 and rejected the modifications included in the second COM proposal.</p>
<p>European Union Agency for Asylum</p> <p>Repealing Regulation (EU) No 439/2010 <a href="#">2009/0027(COD)</a></p> <p>Subject 7.10.06 Asylum, refugees, displaced persons; Asylum, Migration and Integration Fund (AMIF) 8.40.08 Agencies and bodies of the EU</p> <p>Legislative priorities <a href="#">Joint Declaration 2021</a> <a href="#">Joint Declaration 2017</a> <a href="#">Joint Declaration 2018-19</a></p>	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	 Civil Liberties, Justice and Home Affairs	 <a href="#">YONCHEVA Elena</a>	19/02/2020
		Shadow rapporteur	
		 <a href="#">TOBÉ Tomas</a>	
		 <a href="#">DONÁTH Anna Júlia</a>	
		 <a href="#">BOESELAGER Damian</a>	
		 <a href="#">HUHTASAARI Laura</a>	
		 <a href="#">PROCACCINI Nicola</a>	
	Former committee responsible		
	 Civil Liberties, Justice and Home Affairs		
Committee for opinion	Rapporteur for opinion	Appointed	
 Foreign Affairs			
 Development	The committee decided not to give an opinion.		
 Budgets			
Former committee for opinion			
 Foreign Affairs			
 Development			
 Budgets			

Council of the European Union	Council configuration	Meeting	Date
	<a href="#">Transport, Telecommunications and Energy</a>	<a href="#">3545</a>	09/06/2017
European Commission	Commission DG	Commissioner	
	<a href="#">Migration and Home Affairs</a>	AVRAMOPOULOS Dimitris	

## Key events

04/05/2016	Legislative proposal published	<a href="#">COM(2016)0271</a>	
07/07/2016	Committee referral announced in Parliament, 1st reading		
08/12/2016	Vote in committee, 1st reading		
08/12/2016	Committee decision to open interinstitutional negotiations with report adopted in committee		
21/12/2016	Committee report tabled for plenary, 1st reading	<a href="#">A8-0392/2016</a>	Summary
09/06/2017	Debate in Council	<a href="#">3545</a>	
12/09/2018	Modified legislative proposal published	<a href="#">COM(2018)0633</a>	
21/10/2019	Committee referral announced in Parliament, 1st reading		
14/07/2021	Approval in committee of the text agreed at 1st reading interinstitutional negotiations	GEDA/A/(2021)002901	
07/10/2021	Debate in Parliament		
11/11/2021	Results of vote in Parliament		
11/11/2021	Decision by Parliament, 1st reading	<a href="#">T9-0448/2021</a>	Summary
09/12/2021	Act adopted by Council after Parliament's 1st reading		
15/12/2021	Final act signed		
30/12/2021	Final act published in Official Journal		

## Technical information

Procedure reference	2016/0131(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
	Repealing Regulation (EU) No 439/2010 <a href="#">2009/0027(COD)</a>
Legal basis	Treaty on the Functioning of the EU TFEU 078-p1; Treaty on the Functioning of the EU TFEU 078-p2
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/9/00154

Documentation gateway					
Legislative proposal		<a href="#">COM(2018)0633</a>	04/05/2016	EC	Summary
Committee draft report		<a href="#">PE589.110</a>	07/09/2016	EP	
Document attached to the procedure		<a href="#">N8-0002/2017</a> <a href="#">OJ C 009 12.01.2017, p. 0003</a>	21/09/2016	EDPS	
Committee opinion	<b>BUDG</b>	<a href="#">PE585.774</a>	12/10/2016	EP	
Economic and Social Committee: opinion, report		<a href="#">CES2981/2016</a>	19/10/2016	ESC	
Committee opinion	<b>AFET</b>	<a href="#">PE589.496</a>	02/12/2016	EP	
Committee of the Regions: opinion		<a href="#">CDR3267/2016</a>	08/12/2016	CofR	
Committee report tabled for plenary, 1st reading/single reading		<a href="#">A8-0392/2016</a>	21/12/2016	EP	Summary
Modified legislative proposal		<a href="#">COM(2016)0271</a>	12/09/2018	EC	Summary
Coreper letter confirming interinstitutional agreement		GEDA/A(2021)002901	02/07/2021	CSL	
Text adopted by Parliament, 1st reading/single reading		<a href="#">T9-0448/2021</a>	11/11/2021	EP	Summary
Commission response to text adopted in plenary		<a href="#">SP(2021)747</a>	13/12/2021	EC	
Draft final act		00061/2021/LEX	15/12/2021	CSL	

Final act
<a href="#">Regulation 2021/2303</a> <a href="#">OJ L 468 30.12.2021, p. 0001</a> Final legislative act with provisions for delegated acts

## European Union Agency for Asylum

The Committee on Civil Liberties, Justice and Home Affairs adopted the report by Péter NIEDERMÜLLER (S&D, HU) on the proposal for a regulation of the European Parliament and of the Council on the European Union Agency for Asylum and repealing Regulation (EU) No 439/2010.

The committee recommended that the European Parliaments position adopted at first reading following the ordinary legislative procedure should amend the Commission proposal as follows:

Strengthen the Agencys mission: the future Agency shall support, facilitate, coordinate and strengthen practical cooperation, information exchange and the implementation of the Common European Asylum System (CEAS), including fundamental rights compliance, by performing the following tasks:

- assist Member States on training or provide training to Member States' experts from all national administrations, courts and tribunals, and national services responsible for asylum matters: the main objective would be to promote best practice and the highest standards in the implementation of EU asylum legislation and to protect the needs of unaccompanied minors and vulnerable persons, integration and resettlement issues and other relevant asylum issues;
- assist Member States with a view to guaranteeing high standards and respect of fundamental rights;
- deploy liaison officers in Member States and, where appropriate, third countries;
- evaluate the implementation of the CEAS, as well as the asylum and reception systems and the reception capacity of the Member States;
- assist Member States with regard to humanitarian visas;
- carry out resettlement missions;
- support Member States with a view to the correct implementation of the Dublin system as regards determining the responsibility of Member States for asylum applications.

Cooperation with other organisations: in order to perform its tasks, the Agency shall work in close cooperation with the UNHCR, relevant intergovernmental organisations, such as the Council of Europe and the International Organisation for Migration, and relevant

non-governmental organisations, researchers and academics. It shall also close collaboration with the European Border and Coast Guard and shall take into account the risk analysis and vulnerability assessment carried out by that Agency to ensure the highest level of consistency and convergence in the information provided by both Agencies. All relevant information shall be sent to the European Parliament.

Transparency, communication and cooperation: the Agency and the Member States' asylum authorities, national immigration and asylum services and other national services shall be subject to a duty to cooperate in good faith and an obligation to exchange all relevant information on a regular basis.

Where the Executive Director has established that a Member State's asylum authorities, national immigration and asylum services and other national services have systematically failed to comply with the duty to cooperate in good faith, including the duty to provide timely and accurate information, he or she shall submit a report to the Management Board and to the Commission and include such information in the annual activity report on the situation of asylum in the Union.

The Agency should focus on the following key issues:

- the processing of applications for international protection by national administrations and authorities, including on the duration of processing of applications and on other procedural aspects; the Agency shall study the differences in the recognition rates recorded by Member States regarding applications for international protection from applicants of a given country of origin which is the subject of the common analysis;
- the root causes, migratory and refugee flows, particularly on the presence of unaccompanied minors, reception capacity and resettlement needs, as well as on any sudden arrivals of large numbers of third-country nationals which may cause disproportionate pressure on asylum and reception systems, with a view to foster quick and reliable mutual information to the Member States and to identify possible risks to the Member States' asylum systems;
- issues regarding a common EU list of safe countries. The information relating to the drawing up of this list should be forwarded to the European Parliament. In this regard, it is provided that the Parliament, the Council or the Commission may request the Agency to examine the situation in one of the third countries in order to determine whether the conditions and criteria for inclusion on the safe list is still relevant;
- the assessment of the asylum situation in the Member States: to this end, the Agency will be able to carry out on-site (possibly unannounced) inspections and case sampling on the basis of information provided by the applicants and on the evaluations transmitted by the bodies and organisations with which it cooperates.

Providing the Agency with new operational capacities: it is proposed to provide new operational capacities to the Agency in the field of human resources. In order to carry out its task of monitoring and evaluating the implementation of the Common European Asylum System and the Member States asylum and reception systems in an effective, impartial and independent manner, the Agency shall have an appropriate number of permanent and temporary staff and adequate financial resources.

The task of monitoring and evaluating the CEAS should not be carried out by seconded experts, but by the Agency's own staff, trained for that purpose.

Each Member State shall contribute to the number of experts, in accordance with Annex 1a. Member States who do not make available the required number of experts shall instead provide a financial contribution to a platform set up at Union level, contributing to addressing challenges due to disproportionate pressure and managed directly or indirectly by the Agency. The Agency shall inform the European Parliament on an annual basis of the number of experts that each Member State has committed and the number experts actually deployed from the pool.

Provision of reception facilities: for the purposes of organising and coordinating the operational and technical measures, the Agency may enter into emergency standby agreements with the UNHCR and relevant intergovernmental or non-governmental organisations to complement the Agency's capacity to provide operational and technical assistance to Member States, in particular with regard to the setting up or provision of reception facilities, the provision of information to asylum seekers, identification, referral and assistance to vulnerable persons and the provision of interpretation services.

Deployment of migration management support teams: where a Member State faces disproportionate migratory challenges at particular hotspot areas of its external borders characterised by large inward mixed migratory flows, that Member State may request technical and operational reinforcement by migration management support teams. The Member State shall submit a request for reinforcement and an assessment of its needs to the Agency and other relevant Union agencies, in particular the European Border and Coast Guard and Europol. The Executive Director, in coordination with other relevant Union agencies, shall assess a Member State's request for reinforcement and the assessment of its needs for the purpose of defining a comprehensive reinforcement package consisting of various activities coordinated by the relevant Union agencies to be agreed upon by the Member State concerned.

During deployment of asylum support teams or experts from the asylum intervention pool, the host Member State shall issue instructions to the teams in accordance with the operational plan.

It is also provided that the Agency deploy liaison officers in Member States and, where appropriate, third countries. The tasks of the Agency's liaison officers shall include, in compliance with Union law and in full respect of fundamental rights, establishing and maintaining contacts with the competent authorities of the third country to which they are assigned. The decision to deploy liaison officers to third countries shall be subject to receiving the prior opinion of the Commission. The European Parliament shall be kept fully informed of those activities without delay.

It should be noted that where experts of an asylum support team or from the asylum intervention pool are operating in a third country, the Agency shall be liable for any damage caused by them during their activities.

Evaluations carried out by the Agency: it is proposed that Member States shall be monitored every three years (and not five as proposed by the Commission) in particular on all aspects of the CEAS. This can also be seen as a preventive measure, since deficiencies may be detected and rectified in a timely matter. The result of these assessments would also provide a clear picture on the overall functioning of CEAS.

Besides this general assessment, it is proposed that there is a need for the possibility of an assessment/monitoring to be decided on an annual basis. Such assessment is to be linked with the information analysis prepared by the Agency. The annual assessment could be carried out in one or more Member States, depending on the abovementioned information analysis carried out by the Agency.

Implementation by Member States of the CEAS and liaison officers in Member States: it is proposed that the Agency initiate a monitoring exercise which would only be carried out in specific cases, where events in any of the Member States give rise to serious concerns regarding

the functioning of any aspects of that Member States asylum system and may put the functioning of the CEAS in jeopardy if not handled in a timely manner.

The Agency may decide that a liaison officer covers up to four Member States which are geographically close to each other. A cooperation procedure between the Agency, liaison officers and the Member States is proposed in this regard. Following the Agency's remarks, the Commission may take measures to address the serious shortcomings observed and inform the European Parliament thereof.

**Fundamental Rights:** Members proposed appointing a fundamental rights officer responsible for drawing up the fundamental rights strategy, monitoring compliance with fundamental rights and promoting the respect of fundamental rights by the Agency. The officer shall be independent in the performance of his or her duties, and shall have access to all information concerning respect for fundamental rights, including by carrying out on-site visits to any operational activity carried out by the Agency.

The budget, including the establishment plan, shall include sufficient financing of the Fundamental Rights Strategy and the Fundamental Rights Officer amounting to at least 5 % of the overall budget.

The Agency shall draw up and further develop and implement a fundamental rights strategy including an effective mechanism to monitor the respect for fundamental rights in all the activities of the Agency.

Various provisions: it is proposed to establish:

- a code of conduct applicable to all experts involved in support operations laying down provisions to guarantee the principles of the rule of law and respect for fundamental rights with particular focus on children, and other persons in a vulnerable situation;
- a compliant mechanism to monitor and ensure the respect for fundamental rights in all the activities of the Agency;
- a prevention of conflicts of interest mechanism requiring the members of its bodies and its staff members to avoid any situation liable to give rise to a conflict of interest during their employment or term of office and to report such situations.

## European Union Agency for Asylum

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The European Parliament adopted a legislative resolution on the proposal for a regulation of the European Parliament and of the Council on the European Union Agency for Asylum and repealing Regulation (EU) No 439/2010.

The European Parliament's position adopted at first reading under the ordinary legislative procedure amends the proposal as follows:

### Purpose and scope

The new regulation aims to improve the implementation of asylum policy in the EU by transforming the current European Asylum Support Office (EASO) into a fully-fledged agency.

The Agency should:

- help ensure the effective and uniform application of EU asylum law in the Member States in a way that fully respects fundamental rights;
- facilitate and support Member States' activities in the implementation of the Common European Asylum System (CEAS), with the aim of preventing or identifying possible weaknesses in Member States' asylum and reception systems, including by promoting convergence in the assessment of applications for international protection across the EU and by coordinating and enhancing practical cooperation and exchange of information;
- improve the functioning of the CEAS, including through a monitoring mechanism and by providing operational and technical assistance to Member States, in particular where their asylum and reception systems are under disproportionate pressure.

The amended text specifies that the Agency should, inter alia:

- assist Member States with receiving and registering applications for international protection;
- assist with the relocation or transfer of applicants or beneficiaries of international protection within the EU;
- assist Member States in identifying applicants requiring special procedural guarantees or those with special reception needs, or other persons in vulnerable situations, including unaccompanied minors.

### Deployment of experts and asylum pool

The Agency should facilitate the deployment of experts to Member States that have requested operational support. The new legislation strengthens the Agency's support for cooperation between Member States and with third countries, thus also contributing to solidarity between Member States and to the EU's global external dimension.

The Regulation provides for the establishment of an asylum reserve, which will consist of a pool of experts from Member States of at least 500 persons, in order to ensure that experts are available for the asylum support teams and can be deployed immediately if needed.

### Monitoring mechanism

The monitoring mechanism should be comprehensive and it should be possible to base the monitoring on information provided by the Member State concerned, the information analysis on the situation of asylum developed by the Agency, on-site visits, including short-notice visits, case sampling and information provided by intergovernmental organisations or bodies, in particular the UNHCR, and other relevant organisations on the basis of their expertise.

The monitoring should in particular cover: (i) the mechanism for determining the Member State responsible for examining applications for international protection established by Regulation (EU) No 604/2013 (Dublin Regulation); (ii) international protection procedures, (iii) the application of the criteria for assessing the need for protection and the type of protection granted, including with regard to respect for fundamental rights, (iv) child protection mechanisms and the specific needs of persons in vulnerable situations.

The provisions of this Regulation relating to the monitoring mechanism are linked, inter alia, to the system for determining the Member State

responsible for examining an application for international protection established by the Dublin Regulation. Since the system as established by that Regulation might change, it is deemed necessary to defer the application of those provisions to a later date, namely 31 December 2023.

#### Complaints mechanism

The Agency should set up a complaints mechanism under the responsibility of the Fundamental Rights Officer. This mechanism should ensure that fundamental rights are respected in all activities of the Agency.