


















Procedure file

Basic information	
<p>COD - Ordinary legislative procedure (ex-codecision procedure) 2016/0131(COD) 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 2009/0027(COD)</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 Joint Declaration 2021 Joint Declaration 2017 Joint Declaration 2018-19</p>	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	 Civil Liberties, Justice and Home Affairs	 YONCHEVA Elena	19/02/2020
		Shadow rapporteur	
		 TOBÉ Tomas	
		 DONÁTH Anna Júlia	
		 BOESELAGER Damian	
		 HUHTASAARI Laura	
		 PROCACCINI Nicola	
		 URBÁN CRESPO Miguel	
	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
	Transport, Telecommunications and Energy	3545	09/06/2017
European Commission	Commission DG	Commissioner	
	Migration and Home Affairs	AVRAMOPOULOS Dimitris	

Key events

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	A8-0392/2016	Summary
09/06/2017	Debate in Council	3545	
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		
07/10/2021	Debate in Parliament		
11/11/2021	Results of vote in Parliament		
11/11/2021	Decision by Parliament, 1st reading	T9-0448/2021	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 2009/0027(COD)
Legal basis	Treaty on the Functioning of the EU TFEU 078-p2; Treaty on the Functioning of the EU TFEU 078-p1
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/9/00154

Documentation gateway

Legislative proposal	COM(2016)0271	04/05/2016	EC	Summary
Committee draft report	PE589.110	07/09/2016	EP	
Document attached to the	N8-0002/2017	21/09/2016	EDPS	

procedure		OJ C 009 12.01.2017, p. 0003			
Committee opinion	BUDG	PE585.774	12/10/2016	EP	
Economic and Social Committee: opinion, report		CES2981/2016	19/10/2016	ESC	
Reasoned opinion	CZ_CHAMBER	PE592.322	24/10/2016	NP	
Committee opinion	AFET	PE589.496	02/12/2016	EP	
Committee of the Regions: opinion		CDR3267/2016	08/12/2016	CofR	
Committee report tabled for plenary, 1st reading/single reading		A8-0392/2016	21/12/2016	EP	Summary
Modified legislative proposal		COM(2018)0633	12/09/2018	EC	Summary
Reasoned opinion	IT_SENATE	PE638.555	18/04/2019	NP	
Text adopted by Parliament, 1st reading/single reading		T9-0448/2021	11/11/2021	EP	Summary
Commission response to text adopted in plenary		SP(2021)747	13/12/2021	EC	
Draft final act		00061/2021/LEX	15/12/2021	CSL	

Final act

[Regulation 2021/2303](#)
[OJ L 468 30.12.2021, p. 0001](#)

Final legislative act with provisions for delegated acts

European Union Agency for Asylum

PURPOSE: to amend and expand the provisions of Regulation (EU) No 439/2010 of the European Parliament and of the Council establishing the European Support Asylum Office (EASO) in order to develop it into an agency which facilitates the implementation and improves the functioning of the Common European Asylum System (CEAS).

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

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: on 6 April in its [Communication](#) "Towards a reform of the Common European Asylum System and enhancing legal avenues to Europe", the Commission stated that it would progressively work towards reforming the existing Union framework by establishing a sustainable and fair system for determining the Member States responsible for asylum seekers, by reinforcing the Eurodac system, by achieving greater convergence in the asylum system thereby preventing secondary movements, and by developing an enhanced mandate for the European Asylum Support Office (EASO).

More specifically, this proposal is part of a first set of legislative proposals the Commission is presenting in the context of a major reform of the Common European Asylum System. These proposals include:

- this draft Regulation on the European Union Agency for Asylum which aims to strengthen the mandate of the European Asylum Support Office (EASO);
- [the draft Regulation](#) which aims to extend the scope of the Eurodac Regulation to include the possibility for Member States to store and search data belonging to third-country nationals or stateless persons who are not applicants for international protection and found irregularly staying in the EU;
- a [draft Regulation](#) establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person.

CONTENT: this proposal builds upon the current mandate of EASO and expands it so as to transform EASO into a fully-fledged Agency.

Scope: the proposal renames EASO as the European Union Agency for Asylum to reflect the stronger mandate of the Agency. It shall ensure the efficient and uniform application of Union asylum law in Member States.

Agencys tasks: one of the main new tasks of the Agency will be to operate the reference key of applications for international protection under

the new Dublin system and support a sustainable and fair distribution of applications for international protection. In order to ensure greater convergence and address disparities in the assessment of applications for international protection, the proposal gives the Agency the task of coordinating efforts among Member States to develop common guidance on the situation in third countries of origin. In addition to these activities, the Agency will also ensure the coordination of networks on country of origin information. Another new task of the Agency will be to assist the Commission in reviewing the situation in third countries which are included in the common EU list of safe countries of origin.

Monitoring and assessment of the implementation of the CEAS: all aspects of the Common European Asylum System (CEAS), including recognition rates, the quality and nature of international protection and reception conditions will be monitored. The aim of this exercise is to ensure that any shortcomings in the functioning of the Common European Asylum System are addressed as early as possible and to ensure an orderly management of the asylum and reception systems. It will also ensure that the Member States have the necessary tools in place to address situations of disproportionate pressure.

Disproportionate pressure on the asylum and reception system: the Agency should provide assistance to Member States in cases where the asylum and reception systems are subject to disproportionate pressure that creates exceptionally heavy and urgent demands on their systems. A disproportionate number of applications for international protection for which a Member State is responsible may be an indication of such pressure. In such cases, the Agency will deploy asylum support teams to provide operational and technical assistance to Member States. The Agency will organise and coordinate a comprehensive set of operational and technical measures, at the request of the Member State concerned, or on its own initiative.

In case the functioning of the Common European Asylum System is jeopardised, the Commission may adopt a decision by means of an implementing act, identifying one or more of the operational and technical measures that the Agency should take to support the Member State concerned. In cases of disproportionate pressure, the Agency will deploy experts from an asylum intervention pool as well as experts from its own staff.

The Executive Director then has two working days to prepare for the practical execution of those measures. The Executive Director and the Member State would need to agree on the operational plan.

Experts from the asylum intervention pool must be deployed within 3 working days from the date when the operational plan is agreed upon. The Agency can also deploy its own staff.

The Member State must cooperate with the Agency to facilitate the implementation of the Commission decision and the practical execution of all the necessary measures.

Asylum intervention pool: the reserve of asylum experts referred to as asylum intervention pool will be composed of at least 500 persons. Experts from this reserve must be placed at the immediate disposal of the Agency if requested. The share that each Member State will contribute towards the asylum intervention pool will also be determined by the Management Board on a proposal of the Executive Director.

Territorial provisions: the United Kingdom and Ireland may participate in this proposal, but are not required to do so, in accordance with the relevant Protocols attached to the Treaties.

BUDGETARY IMPLICATIONS: the total financial resources necessary to enable the Agency to fulfil its mission under the proposed expanded mandate amount to EUR 363.963 million for the period 2017-2020. For the Agency to carry out its new tasks effectively, 357 staff members will be needed over the period 2017-2020, in addition to the number of temporary and contractual agent posts currently authorised under the 2016 budget. The total number of staff will reach 500 by 2020.

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 Agency's 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 of 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 manner. 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 State's 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

PURPOSE: to give the EU Agency for Asylum the mandate, tools and financial means to provide the Member States concerned with full financial and operational support throughout the asylum procedure.

BACKGROUND: the amended proposal is presented in the context of the inter-institutional negotiations on the proposal for a Regulation on the European Union Agency for Asylum and repealing Regulation (EU) No 439/2010 presented by the Commission on 4 May 2016. It is part of a set of measures, which are a follow-up to the European Council conclusions of 28 June 2018, through which the Commission is proposing to reinforce the European Border and Coast Guard and to review the Return Directive, and amend its original proposal for a Regulation on a European Union Agency for Asylum.

In its conclusions, the European Council confirmed the importance of relying on a comprehensive approach to migration and highlighted the importance for the Union of providing full support to ensure an orderly management of migration flows. The main principles of solidarity and responsibility agreed in the conclusions of European Council have also been further supported by Member States in different fora with an emphasis put on the need to reinforce the tools of European solidarity.

The Commission considers that this amended proposal should be discussed in the context of the on-going negotiations on the reform of the Common European Asylum System (CEAS) and should be seen as complementing those discussions. The amended proposal should not in any way further delay the adoption of the Regulation on the European Union Agency for Asylum.

CONTENT: this proposal amending the Commission's initial proposal for a regulation on the European Union Agency for Asylum takes into account the interinstitutional negotiations and the provisional agreement concluded between the European Parliament and the Council on 28 June 2017. The proposed amendments include the following:

Enhanced operational support from the Agency in the context of asylum procedures: to enable Member States to process applications for international protection swiftly and in a timely manner, the proposal provides for the possibility for a Member State to benefit, at its request, from increased support from the Agency, including through its involvement in the procedure for international protection at the administrative stage and in the procedure applicable under the Dublin Regulation.

At the request of the national competent authority, the Agency will be able to prepare decisions on applications for international protection and provide those decisions to the national competent authorities who will then take the decision on the individual applications and have full responsibility for processing this request. The Agency will also be able to support Member States with handling their appeals in asylum cases with full respect for judicial independence and impartiality in each Member State.

Migration management support teams: the Commission proposes to expand the possibilities of triggering the use of migration management support teams. At their request, Member States will be able to rely on increased operational and technical reinforcement by migration management support teams in particular at hotspot areas or controlled centres. The teams will be composed of teams of experts from Member States deployed by the Agency, the European Border and Coast Guard Agency and Europol and will be coordinated by the Commission.

Deputy Executive Director: the proposal specifies that the responsibility for proposing the list of candidates for a deputy Executive Director to the Agency's Management Board should be borne by the Commission instead of the Executive Director.

BUDGETARY IMPLICATIONS: the additional financial resources requested equal to EUR 55 million for each year between the years 2019-2027. The total financial resources necessary to enable the Agency to fulfil its mission under the proposed expanded mandate amount to EUR 320.8 million for the period 2019-2020 and EUR 1.25 billion for the period 2021-2027.

European Union Agency for Asylum

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.