European Union Agency for Asylum

2016/0131(COD) - 21/12/2016 - Committee report tabled for plenary, 1st reading/single reading

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 Agencys 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 Agencys 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 Agencys 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.