

Establishing a European Asylum Support Office

2009/0027(COD) - 25/02/2010 - Council position

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.