Basic information

2005/0204(CNS) CNS - Consultation procedure Decision	Procedure completed
Asylum and immigration policy: mutual information procedure concerning Member States measures in these areas **Subject** 7.10.06 Asylum, refugees, displaced persons; Asylum, Migration and Integration Fund (AMIF) 7.10.08 Migration policy	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
LIBE Civil Liberties, Justice and Home Affairs	GAUBERT Patrick (PPE-DE)	23/01/2006

Committee for opinion on the legal basis	Rapporteur for opinion	Appointed
JURI Legal Affairs	WALLIS Diana (ALDE)	12/12/2005

Council of the European Union

Council configuration	Meetings	Date
Justice and Home Affairs (JHA)	2752	2006-10-05
Justice and Home Affairs (JHA)	2732	2006-06-01

European Commission

Commission DG	Commissioner
Justice and Consumers	FRATTINI Franco

Key events

Date	Event	Reference	Summary
10/10/2005	Legislative proposal published	COM(2005)0480	Summary
27/10/2005	Committee referral announced in Parliament		
15/05/2006	Vote in committee		Summary
17/05/2006	Committee report tabled for plenary, 1st reading/single reading	A6-0186/2006	
01/06/2006	Debate in Council		Summary

05/07/2006	Debate in Parliament		
06/07/2006	Decision by Parliament	T6-0313/2006	Summary
06/07/2006	Results of vote in Parliament		
05/10/2006	Act adopted by Council after consultation of Parliament		
05/10/2006	End of procedure in Parliament		
14/10/2006	Final act published in Official Journal		

Technical information

Procedure reference	2005/0204(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Decision
Legal basis	EC Treaty (after Amsterdam) EC 066
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/6/30962

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE371.761	30/03/2006	
Amendments tabled in committee		PE372.212	26/04/2006	
Committee opinion	JURI	PE374.041	04/05/2006	
Committee report tabled for plenary, 1st reading/single reading		A6-0186/2006	17/05/2006	
Text adopted by Parliament, 1st reading/single reading		T6-0313/2006	06/07/2006	Summary

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2005)0480	10/10/2005	Summary
Document attached to the procedure	SEC(2005)1233	10/10/2005	Summary
Commission response to text adopted in plenary	SP(2006)3801	28/08/2006	
Follow-up document	COM(2009)0687	18/12/2009	Summary

Additional information		
Source	**Document**	**Date**
European Commission	EUR-Lex	

Final act	
Decision 2006/0688 OJ L 283 14.10.2006, p. 0040-0043	Summary

Asylum and immigration policy: mutual information procedure concerning Member States measures in these areas

2005/0204(CNS) - 05/10/2006 - Final act

PURPOSE: to improve information exchange between the Member States concerning national measures taken in the areas of asylum and immigration.

LEGISLATIVE ACT: Council Decision 2006/688/EC on the establishment of a mutual information mechanism concerning Member States' measures in the areas of asylum and immigration.

CONTENT: this Decision establishes **a mechanism for the mutual exchange of information concerning national measures in the areas of asylum and immigration** which are likely to have a significant impact on several Member States or on the European Union as a whole. This mechanism allows for the preparation of exchanges of views and debates between Member States on such measures.

In practice, the information to be provided relates to measures which Member States intend to take, or have recently taken, in the areas of asylum and immigration, where these measures are publicly available. Such information shall be transmitted as soon as possible.

The Decision allows the Member States to decide themselves whether their national measures are likely, or not, to have a significant impact on several Member States or on the EU as a whole. They are therefore free to decide whether to send the information or not. The measures shall be sent to a specific network established by the Decision and in strict compliance with data protection.

The Commission or a Member State may request **additional information** concerning the information communicated by another Member State. That additional information may be sent via the network or directly between Member States.

A standard information request form is proposed in the annex to the Decision. It specifies the type of measures taken by Member States that can be sent to other Member States (draft and adopted legislation, policy intentions, long-term programming, final decisions of the highest courts or tribunals, administrative decisions affecting nationals of third countries, etc).

Network: a web-based network shall be established by this Decision in order to promote information exchange between partners. The Commission shall be responsible for managing this network (structure, content and access) in strict compliance with the provisions on confidentiality of the information sent. Member States shall designate national contact points having access to the network.

Exchanges of views, the general report and discussions at ministerial level: the Commission shall, once a year, prepare a general report summarizing the most relevant information transmitted by the Member States. This report shall be transmitted to the European Parliament and to the Council. The report may constitute the basis for a debate on national asylum and immigration policies at ministerial level.

Member States shall be associated with the Commission for the preparatory work of the report, which may include technical meetings throughout the reporting period consisting in an exchange of views with Member States' experts in the area referred to in the Decision.

Evaluation and Review: the Commission shall evaluate the functioning of the mechanism two years after the entry into force of this Decision and regularly thereafter. If appropriate, the Commission shall propose amendments to it.

Territorial provisions: the Decision shall not apply to Denmark, in accordance with the relevant provisions of the treaties.

ENTRY INTO FORCE: 3 November 2006.

Asylum and immigration policy: mutual information procedure concerning Member States measures in these areas

2005/0204(CNS) - 06/07/2006 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted a resolution drafted by Patrick **GAUBERT** (EPP-ED, FR) and made some amendments to the Commission's proposal. (Please see the summary of 15/05/2006.)

Parliament added that individual Member States and/or the Commission may request information on measures not communicated beforehand by a Member State, where they consider that those measures are liable to have an impact on migration in the Member State requesting the information or in the Community as a whole.

Asylum and immigration policy: mutual information procedure concerning Member States measures in these areas

2005/0204(CNS) - 10/10/2005 - Document attached to the procedure

COMMISSION'S IMPACT ASSESSMENT

For further information regarding the context of this issue, please refer to the summary of the Commission's initial proposal for a Council Decision on the establishment of a mutual information procedure concerning Member States' measures in the areas of asylum and immigration (COM(2005)0480) .

1- POLICY OPTIONS AND IMPACTS

Four policy options were explored in relation to the establishment of a mutual information procedure concerning Member States' measures in the areas of asylum and immigration.

1.1- Option 1 - maintaining the status quo: the minimalist option would consist in maintaining the current situation, in which Member States and the Commission are often informed of important measures taken by other Member States in the area of asylum and immigration through the media.

1.2- Option 2 – establishment ofan information procedure which encourages Member States to inform other Member States and the Commission of their national measures, but which has no compulsory character and relies on the goodwill of Member States.

1.3- Option 3 – establishing an obligation to inform other Member States and the Commission of planned measures. This would only applyfrom the moment they are in the public domain, thus avoiding the communication of confidential/non-public information.

1.4- Option 4 - the compulsory communication of planned measures being still considered internally by governments, therefore including information which is not in the public domain.

Options 2, 3 and 4 could include, besides the obligation to communicate measures through the network, the possibility for the Commission or a Member State to ask for an exchange of views concerning a particular national measure communicated through the network. It would serve as the forum for other Member States to express their views during an oral discussion on the concerned national measure.

Equally, these 3 options could include the communication and discussion, not only of general legislative measures, but also of certain administrative and judicial decisions susceptible of having an impact on other Member States or on the Community as a whole.

CONCLUSION: The preferred option is ***a system which makes compulsory the sharing of information on planned national measures in the areas of asylum and immigration from the moment they are made public*** (option 3).

IMPACT

Option 1: Given the ongoing development of common European asylum and immigration policies and the impact that a national measure may have on other Member States or on the Union as a whole, more cooperation and improved mutual information on national asylum and immigration measures is needed. Keeping the current state of things (information through the media or, in the best of cases, through informal channels) cannot be considered an optimal choice. In a common area of freedom, security and justice it is essential that all Member States are informed as early as possible of measures taken by other Member States which could affect them. Moreover, some Member States could have more information than others due to their special relationship with the Member State adopting a particular measure, and so would have an advantage above Member States which would not have direct access to the information.

Option 2: The establishment of a non compulsory system would be a positive step but there would be a risk that Member States would not feel bound by it and would not communicate their national measures through it. The experience acquired with the 1988 Commission Decision shows that a formal obligation established by a Council legal instrument is more likely to have a real impact.

Option 3: This goes further than mere communication through the press, as the communication will require certain formal requirements and be compulsory, without undermining the necessary degree of confidentiality during the early stages of policy-making. This option would not require a high degree of security requirements for the web-based network, as the information channelled through it would normally be in the public domain.

Option 4: This option would have the advantage of allowing input from other Member States and consideration of their views at an early stage. On the other hand, such an 'early warning' mechanism could disrupt the normal legislative procedure and pose problems of confidentiality and security. The network would need to be highly secure to handle this kind of confidential information. Member States and the Commission would be able to express their views on a text which is still subject to many changes and modifications as it is still being the object of internal discussions.

Financially, the proposed measure is expected to have no cost at all if option 1 is chosen and a rather limited cost if the choice falls on options 2 and 3. This is due to the use of a web-based system which would allow sharing the information at no additional cost. The use of the web as a means for communicating seems preferable to a system based on communication through faxes or letters, in terms of efficiency, cost and speed. Option 4 would be more expensive as it would require an extreme securitisation of the network.

2- FOLLOW-UP

In order to monitor if the mutual information procedure is effectively followed by Member States and how it affects national and community policy-making, it is proposed that the Commission undertake a review on the application of the Council Decision three years after its entry into force, and periodically thereafter. This would allow the Commission to propose future improvements if the procedure does not attain its objective of improving coordination and mutual information between national administrations responsible for asylum and immigration issues.

Asylum and immigration policy: mutual information procedure concerning Member States measures in these areas

2005/0204(CNS) - 10/10/2005 - Legislative proposal

PURPOSE: to establish a formal information procedure between Member States and with the Commission in order to improve information exchange on asylum and immigration.

PROPOSED ACT: Council Decision.

CONTENT: Since the entry into force of the Treaty of Amsterdam, a large number of common measures have been adopted in the areas of asylum and immigration, as the Community and the Member States share the competence to legislate in those areas. Nevertheless, Member States keep an important role in this area and are continually adopting new national measures, which may in some cases have an impact on other Member States or on the Community as a whole.

Indeed, the absence of border checks in the Schengen area, the common visa policy, the tight economic and social relations between EU Member States and the development of common immigration and asylum policies in recent years have had as an indirect consequence that asylum and immigration measures taken by one Member State are more likely to have an impact on other Member States. For instance, a very restrictive migratory policy in one Member State may divert migration flows to its neighbours; and a regularisation procedure may attract illegal immigration into one Member State, from which regularised migrants could afterwards more easily move to other Member States. Other national asylum and immigration measures, including, among others, changes in procedures for granting international protection; determination of safe countries of origin; admission programmes for third country nationals, including quotas; and integration measures may also have an impact on other Member States or on the Community as a whole.

This proposal deals with a mutual information procedure. Member States would communicate to the other Member States and to the Commission measures which they intend to take in the areas of asylum and immigration, at the latest when they are made public. Only measures susceptible of having an impact on other Member States or on the Community as a whole must be communicated. This includes judicial and administrative decisions.

Member States providing the information are requested to prepare an executive summary of this information in another official language of the Community. The information will be transmitted through a web-based network run by the Commission. A Member State or the Commission may request additional information on a particular measure.

A particular national measure may also be the object of an exchange of views, with the presence of the Member State whose measure is the object of an exchange of views, the Commission and all other Member States wishing to participate. The purpose of such an exchange of views is the identification of problems of common interest; therefore, discussions will not lead to any voting nor will they result in any kind of recommendations to the Member State concerned. If an exchange of views on a national measure is called for, Member State will send a representative to the exchange of views meeting in order to explain in detail the elements of the national measure being the object of an exchange of views and hear other Member States' views on it.

The information system will be run by the Commission using the existing IDA telematic network. This allows for the creation of separate communication channels at a minimum cost without any substantial investment being needed.

FINANCIAL IMPLICATIONS: The financial burden is minimised as the exchanges of views provided for by the proposed measure will be merged with meetings of other meetings of Commission advisory groups, thus reducing travel and accommodation expenses for Member States. An overall objective of the Commission with the proposed Council Decision, is to simplify existing structures for Member States' cooperation in the areas of asylum and immigration.

Duration of the action and of the financial impact: There is neither a duration nor revision period. Application of the instrument should start in 2007.

Administrative expenditure not included in reference amount (NDA):

Human resources and associated expenditure: EUR 0.648 million (total over six years.) 1 B Official = EUR 108,000 per year

Administrative costs, other than human resources and associated costs, not included in reference amount (NDA): EUR 0.324 (total over six years)

Total indicative financial cost of intervention: total commitment and payment appropriations including cost of Human Resources: EUR 0.972 million.

Asylum and immigration policy: mutual information procedure concerning Member States measures in these areas

2005/0204(CNS) - 18/12/2009 - Follow-up document

The Commission presents a report on the establishment of a mutual information mechanism concerning Member States' measures in the areas of asylum and immigration (MIM).

The Decision entered into force on 4 November 2006. The mechanism itself became operational in April 2007. In line with the Decision, the Commission established a special interest group on the platform of the web-based CIRCA (Communication & Information Resource Centre Administrator) network and gave access to national contact points designated by Member States. By the end of September 2008 all Member States had designated their national contact points.

Access had been given to around 60 national experts, while the number of access demanded by Member States varies between one and five per Member State.

To support the national contact points and to make the experts familiar with the network, the Commission organised in February 2007 a CIRCA training followed by an additional training session in a workshop in December 2007. In parallel the Commission informed Member States in the Committee on Immigration and

Asylum about the most relevant information transmitted by Member States

General overview: from April 2007 until 30 September 2009, 16 Member States transmitted information via the MIM. The information covered 45 different measures. Almost 50% of the communication referred to adopted legislation, while only 4 communications concerned draft legislation. Altogether 9 communications were provided by 5 Member States on policy intentions and long-term programming. 11 Member States have not provided any information. While there were certain periods of increased intensity of exchange of information, only four communications have been made within MIM in 2009.

The format of the communicated information was not always homogenous. This may have rendered the effective reception of the information more difficult, taking into account that the interested Member States were not able to identify instantly the gist of the measure or its possible impact. Furthermore, in some instances only the English title of the measure in question was indicated, with the text being only communicated in the original language. This may have rendered the information incomprehensible.

Evaluation: Member States and the Commissionhave underlined that the absence of border checks in the Schengen area, the common visa policy, the tight economic and social relations between EU Member States and the development of common immigration and asylum policies have the result that national immigration policies clearly have an impact beyond national borders. Actions taken in one Member State for national or regional reasons can rapidly have an impact on another Member State. In this light, the systematic exchange of information allows to obtain a better knowledge of other Member States' policies, to improve coordination between them, to influence the quality of new EU legislation and, finally, to increase mutual knowledge and confidence.

It can be concluded that the practical experience of the functioning of the MIM did not meet these expectations. Even if the quantity of information provided may not be a sole factor of assessment, it is apparent that its scale of application must be deemed insufficient. Moreover, a relatively considerable number of Member States have never communicated any measure through the MIM (BE, BU, CY, DK, EE, FI, FR, IE,, LV, LT, LU)

The weakening dynamics of the exchange of information within the MIM is also evident even though the Commission has on numerous occasions encouraged Member States to use the system. A particular concern may be expressed with regard to the communication of measures before their adoption.. The poor level of activity at this stage of a decision-making process surely does not contribute to an exchange of views helping to form a more coordinated approach of national policies.

Conclusions: the report concludes that strengthening information sharing and joint discussion within the EU is a way to ensure a high level of political and operational solidarity in the common immigration and asylum policy. National measures taken in isolation may weaken European cohesion and trust. The Commission recalls that the need to foster the exchange of information in this field has also been stressed in the European Pact on Immigration and Asylum where it was agreed to strengthen mutual information on migration by improving existing instruments where necessary. In its Communication issued in view of the Stockholm Programme, the Commission also indicated that the exchange of information between Member States concerning regularisations should be improved. (COM(2009)0262).

Consequently, the Commission is of the view that effective communication must remain a crucial component of further development of the EU policies on immigration and asylum, where the need for the exchange of information will only be enhanced. In the way the MIM currently functions, it does not seem, however, to attain in itself this objective.

Given the relatively short period of functioning of MIM, the Commission does not also consider it relevant to propose amendments to the Decision.

In future, the Commission considers it desirable to streamline the functioning of the MIM into a more general framework. A suitable context presents itself with the launch of the tracking method for monitoring the implementation of the European Pact on Immigration and Asylum whose output will be the Commission's annual report to the Council. The first tracking method report will be published in 2010, while it will take on an extended form in 2011, to cover also the commitments relating to the Stockholm Programme and its accompanying Action Plan (COM(2009)0266).

This means that following this report, the information currently communicated through the MIM will in the following years be provided in the Commission's annual report on the implementation of the Pact.

Asylum and immigration policy: mutual information procedure concerning Member States measures in these areas

2005/0204(CNS) - 01/06/2006

Pending the opinion of the European Parliament, the Council agreed on a general approach on a draft Decision establishing a mutual information mechanism concerning Member States' measures in the areas of asylum and immigration which are likely to have a significant impact on several Member States or on the European Union as a whole.

The establishment of this mechanism will facilitate the exchange of views among Member States at technical and political level in the areas of asylum and immigration. Member States are encouraged to transmit relevant information as soon as possible and at the latest when the measure concerned become publicly available.