



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 29 October 2010 (03.11)
(OR. en,fr)**

Interinstitutional File:

15561/10

2007/0112 (COD)

2008/0242 (COD)

2008/0243 (COD)

2009/0026 (COD)

2009/0027 (COD)

2009/0164 (COD)

**ASILE 85
CODEC 1140**

NOTE

from: Presidency
to: Permanent Representatives Committee/Council
Subject: Common European Asylum System
– State of Play

Introduction

The joint commitment to establish a Common European Asylum System (CEAS) by 2012 has been reconfirmed on a number of occasions. In order to reach that objective, the Presidency has developed a strategy that has been discussed and welcomed at the informal meeting of JHA ministers on 15 and 16 July, at the Ministerial Conference on asylum on 13 and 14 September and at the JHA Council on 7 and 8 October.

The Presidency wants to inform the Ministers at the JHA Council on 8/9 November about developments since the JHA Council on 7/8 October, in particular as regards the four proposals that have been identified as priority instruments on the legislative side of CEAS: the Directives on Qualification and on Long Term Residents and the Regulations on Dublin and Eurodac. Furthermore, the Presidency addresses the establishment of the European Asylum Support Office, which will become an essential tool as regards practical cooperation and solidarity.

Extension of the long term residents directive to beneficiaries of international protection

At the beginning of the Presidency, the already existing Council compromise on this proposal of 2008 (on the basis of which the then required unanimity could almost be reached) was confirmed. In his draft report, which was presented on 28 September in the LIBE Committee, the rapporteur of the European Parliament accepted to a large extent the Council compromise. On the basis of discussions with Member States in the JHA-Counsellors group, and of constructive contacts with the rapporteur and the shadow rapporteurs (a first informal trilogue took place on 12 October), most of the outstanding issues were resolved at a technical level. On the remaining issues where Council and Parliament still disagree, a – possibly final – trilogue will take place on 9 November.

Qualification recast

The Commission submitted its proposal for the recast of the Qualification Directive in October 2009. Building upon the excellent work during Spanish Presidency, the Presidency was able to finalize the technical deliberations on this proposal at the Asylum Working Party on 20-21 October. At the SCIFA (Strategic Committee on Immigration, Frontiers and Asylum) meeting on 22 October, the two main open issues were discussed, namely the definition of family members and the modalities and extent of approximation of the statuses of refugees and beneficiaries of subsidiary protection. On the basis of the outcome of this debate, the Presidency aims at further defining the position of Council during the coming weeks, in view of engaging, by the end of November, in first informal contacts with the Parliament. The rapporteur presented her draft report in the LIBE Committee on 11 October. This way forward should allow for a swift agreement in first reading.

Dublin recast

The Commission tabled the proposal in December 2008. The European Parliament adopted a resolution to amend the proposals in May 2009. On the basis of valuable efforts by previous Presidencies, technical discussions in Council preparatory bodies have reached their final stage now. During several meetings in the Asylum Working Party and in SCIFA, the Presidency found broad support for the proposed approach on a number of issues, such as the definition of family members, the concept of relatives, the issue of detention in relation with the Dublin procedure and the suspensive character of appeals against transfer decisions. Also, on a number of occasions, ministers voiced serious concerns regarding proposed suspension mechanisms for Dublin transfers in case of particular pressure on the asylum system of a Member State.

In the course of the coming weeks, the Council position will be further clarified, taking account of the outcomes of abovementioned discussions, with a view to starting first informal contacts with the European Parliament before the end of the year.

Eurodac recast

The Commission submitted a new proposal on 11 October. The Parliament will draw up a new first reading position. Discussions on the necessary technical modifications to the Eurodac Regulation in Council and Parliament had already reached an advanced stage at the basis of the pre-existing proposals. The results of these discussions have been taken into account in the new proposal. The main difference with the last proposal, dating from September 2009, is that this new text does not provide for access for law enforcement authorities to the Eurodac System. The Commission explains this omission by stating that it would facilitate an agreement on the four priority proposals identified by the Presidency and would thus contribute to the timely establishment of the CEAS, that it would allow for a swift implementation of the necessary technical adaptations to the existing Eurodac System and that it would facilitate the timely set up of the new IT Agency which should also be responsible for the management of Eurodac. A large number of delegations have already voiced their disappointment at the absence of provision for law enforcement access in the new proposal during recent SCIFA and CATS meetings, and have reiterated their request to the Commission to come forward very soon with proposals that would allow for such access.

European Asylum Support Office (EASO)

The Commission is, in accordance with the Regulation establishing the European Asylum Support Office, undertaking the necessary preparations for making the office fully operational. The first meeting of the Management Board will take place in Malta on 25 and 26 November. It is expected that, on that occasion, the first Executive Director will be selected, regulations on the internal functioning of the Agency will be discussed and a draft working programme will be presented.

In order to safeguard the results of the fruitful discussions at the Asylum Conference held on 13 and 14 September, the Presidency has annexed to this note a list with priorities for EASO, reflecting these discussions. The Presidency hopes this list will provide useful input for the Commission in its preparations for the first meeting of the Management Board and for EASO in developing its activities.

European Asylum Support Office – Priority objectives identified by the Member States at the Ministerial Conference on 13 and 14 September 2010

With the establishment of a European Asylum Support Office (EASO), which will soon be operational, a specific framework for greater practical cooperation between Member States' asylum services has been put in place.

All the Member States have undertaken to contribute to the success of this new independent agency; To ensure that the EASO quickly becomes operational but also remains fully in tune with the concerns of the Member States which wanted it established, we felt it important at the Ministerial Conference on 13 and 14 September 2010 to ask them to identify priority objectives which could be notified to the EASO.

The Member States' replies indicate that **4 objectives can be clearly identified as taking priority.:**

1. Training support

The process of training those responsible for examining asylum applications should be harmonised in order to ensure a consistent approach to the reasons and conditions for granting protection which result from the Geneva Convention and the Qualification Directive and to increase the convergence of methods of assessing applications (interview techniques, grounds for decisions, question of credibility, etc.). Our aim must be to put in place a real professional community at European level.

This work will, where necessary, have to draw on existing practical-cooperation projects. The European Asylum Curriculum (EAC) has been identified as an example of "good practice" in cooperation between Member States in this area. It should be developed further by the EASO in order to further facilitate its accessibility to all Member States (availability in all EU languages, cost, accessibility for interpreters, judges, non-State actors).

2. Information on countries of origin

The EASO will be responsible for activities relating to the collection of information on the countries of origin of asylum-seekers, inter alia the creation of a portal and the analysis and preparation of reports on countries of origin (in particular on the basis of joint missions).

The analysis of countries of origin will not be for the purpose of giving Member States instructions as to the granting or refusal of applications for international protection but to facilitate a common approach involving submission of documents in a common format and use of a common method of assessment.

Initially, such analysis should focus on countries of origin which have given rise to the greatest differences between Member States in levels of admission for international protection and on countries of origin from which large numbers of asylum-seekers come but for which the levels of acceptance by Member States are very low.

3. Increasing capacities

Increasing the capacities of Member States under particular pressure, as part of the solidarity which should characterise relations between Member States, is a way of ensuring fair and effective asylum procedures throughout the Union and avoiding imbalances in asylum systems.

In this connection, the EASO will have to put in place an "early-warning system", evaluate the needs of countries under particular pressure and coordinate or support any joint actions to assist the countries concerned (information on the situation in countries of origin, training courses, sending of teams of experts, relocation, etc.).

Initially, such action should focus on countries which have already clearly shown that they are in need of assistance, e.g. Greece, Cyprus and Malta.

In the context of the external dimension of the Common European Asylum System, cooperation on resettlement and cooperation with the relevant authorities of third countries is also important with a view to lasting solutions and increased capacities.

4. Contribution to implementation of the Common European Asylum System

It is important that the EASO should assist the European Commission in its monitoring process by gathering and analysing precise and comparable data on asylum in Europe.

This would also enable the EASO to identify difficulties encountered by States in this respect and better target its actions, in the context of practical cooperation between Member States and with regard to those under pressure.

