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Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**establishing an European Asylum Support Office**

**IMPACT ASSESSMENT**

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## Impact Assessment

### On a Regulation of the European Parliament and of the Council establishing an European Asylum Support Office

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**1. PROCEDURAL ISSUES AND CONSULTATION OF INTERESTED PARTIES**

**1.1. Calls to set up a European Asylum Support Office**

Work to set up a Common European Asylum System (CEAS) started immediately after the Treaty of Amsterdam entered into force in May 1999, on the basis of the orientations given by the Tampere European Council (October 1999).

The 2004 Hague Multiannual Programme for strengthening the area of freedom, security and justice<sup>1</sup> set out the framework and main objectives, one of these being ‘*to provide protection in accordance with the Geneva Convention on Refugees and other international treaties to persons in need*’. Among other things, the European Council invited the Council and the Commission to set up in 2005 appropriate structures involving the national asylum services of the Member States, the aim being to facilitate practical and collaborative cooperation. After establishing a common asylum procedure,

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<sup>1</sup> The Hague Programme: Strengthening Freedom, Security and Justice in the European Union, Presidency Conclusions: Brussels, 4/5 November 2004.  
[http://ec.europa.eu/justice\\_home/news/information\\_dossiers/the\\_hague\\_priorities/doc/hague\\_programme\\_en.pdf](http://ec.europa.eu/justice_home/news/information_dossiers/the_hague_priorities/doc/hague_programme_en.pdf)

these structures should be transformed, on the basis of an evaluation, into a **European support office** for all forms of cooperation between Member States relating to the CEAS.

The Commission identified in the Action Plan ten priorities<sup>2</sup>, the third of which was entitled ‘*A common asylum area: establish an effective harmonised procedure in accordance with the Union’ values and humanitarian tradition*’. This was to include:

- work towards the establishment of a common asylum area taking into account the humanitarian tradition and respect of international obligations of the Union and the effectiveness of a harmonised procedure; and
- establishing a **European support office** for all forms of cooperation between Member States relating to the Common European Asylum System (after the establishment of a common asylum procedure and on the basis of an evaluation).

In April 2008, the Justice and Home Affairs Council adopted conclusions on practical cooperation in the field of asylum and expressly invited the Commission to put forward suggestions to step up practical cooperation until a decision is taken on the **future structure for supporting practical cooperation**.

With a view to preparing the second stage of the CEAS, in June 2008 the Commission adopted a Communication<sup>3</sup> entitled “Policy Plan on Asylum — An Integrated Approach to Protection across the EU”, which set out a road map for the second stage of completing the CEAS, and announced that it would put forward a legislative proposal to set up a **European Asylum Support office**.

In the meantime, the Commission Communication entitled “European Agencies — The Way Forward”<sup>4</sup>, adopted in March 2008, placed a moratorium on setting up new agencies within the Union. However, agencies which were already under inter-institutional discussion would go ahead as planned, including possible proposals in the field of justice and home affairs. This specifically concerned a possible proposal to set up a **European Support Office for Asylum**.

At the end of September 2008, the European Council adopted the European Pact on Immigration and Asylum. Under this Pact<sup>5</sup>, the European Council expressly agreed to

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<sup>2</sup> Communication from the Commission to the Council and the European Parliament: The Hague Programme: Ten priorities for the next five years, COM (2005) 184 Final.

<sup>3</sup> Communication from the Commission to the EP, the Council, the European Economic and Social Committee and the Committee of Regions: Policy Plan on asylum, An integrated approach to protection across the EU, Com(2008)360 Final.

<sup>4</sup> “European Agencies — The Way Forward”, Com(2008)135 Final.

<sup>5</sup>

[http://register.consilium.europa.eu/servlet/driver?page=Result&lang=EN&typ=Advanced&cmsid=639&ii\\_PUBLIC\\_DOC=%3E0&ff\\_COTE\\_DOCUMENT=13440%2F08&ff\\_COTE\\_DOSSIER\\_INST=&ff\\_TITRE=&ff\\_FT\\_TEXT=&ff\\_SOUS\\_COTE\\_MATIERE=&dd\\_DATE\\_DOCUMENT=&dd\\_DATE\\_REUNION=&dd\\_FT\\_DATE=&fc=ALLLANG&srm=25&md=100&ssf=](http://register.consilium.europa.eu/servlet/driver?page=Result&lang=EN&typ=Advanced&cmsid=639&ii_PUBLIC_DOC=%3E0&ff_COTE_DOCUMENT=13440%2F08&ff_COTE_DOSSIER_INST=&ff_TITRE=&ff_FT_TEXT=&ff_SOUS_COTE_MATIERE=&dd_DATE_DOCUMENT=&dd_DATE_REUNION=&dd_FT_DATE=&fc=ALLLANG&srm=25&md=100&ssf=)

*“establish in 2009 a **European support office** with the task of facilitating the exchange of information, analyses and experience among Member States, and developing practical cooperation between the administrations in charge of examining asylum applications”.*

## 1.2. Consultation and expertise

The Policy Plan on Asylum was drafted on the basis of an in-depth reflection and debate with stakeholders on the future architecture of the CEAS and on the results of the debate that followed the Commission’s Green paper published in June 2007<sup>6</sup>, the aim of which was to identify the options for shaping the second phase of the CEAS. Specific questions<sup>7</sup> were asked as regards the possible creation of a support asylum structure. The response to the public consultation included 89 contributions from a wide range of stakeholders<sup>8</sup>, including 20 Member States, regional and local authorities, the Committee of Regions and the Economic and Social Committee, UNHCR, academic institutions, political parties and a large number of NGOs. The replies to the Green Paper showed broad support for enhancing practical cooperation activities related to the CEAS and for the idea of creating a dedicated structure to support and coordinate such activities in the form of an asylum support structure. The preferred policy option of the policy plan impact assessment report included the creation of the **European Support Office for Asylum**.

In early 2008, the Commission ordered an external feasibility study on the establishment of structural support for the practical cooperation in the field of asylum, which would feed into the impact assessment of the future European Asylum Support Office. The external study was based on a round of stakeholder consultation, consisting of ten case studies and interviews with over fifty stakeholders<sup>9</sup>. Annex 1 to this report presents a detailed overview of the stakeholders consulted during the feasibility study. The contractor then organised two workshops, held in April 2008 and June 2008. During these workshops, the stakeholders were invited to give their views concerning the tasks,

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<sup>6</sup> Green Paper on the future Common European Asylum System, COM (2007) 301Final.

<sup>7</sup> See under para.3, questions 21 and 22.

<sup>8</sup> The 89 contributions received are available at:

[http://ec.europa.eu/justice\\_home/news/consulting\\_public/gp\\_asylum\\_system/news\\_contributions\\_asylum\\_system\\_en.htm](http://ec.europa.eu/justice_home/news/consulting_public/gp_asylum_system/news_contributions_asylum_system_en.htm).

<sup>9</sup> The following work has been undertaken by the contractor: review and analysis of Member States responses to the Green Paper; interview with DG JLS officials responsible for asylum and officials responsible for agencies within Sec Gen. The following stakeholders have been interviewed: representatives of the European Parliament; representatives of existing cooperation initiatives or structures (e.g. EURASIL, IGC, GDISC, EMN); representatives of NGOs and inter-governmental organisations, including ECRE, UNHCR, and Caritas Europe and Ministerial departments and competent bodies responsible for the formulation of asylum policies in 10 Member States. Case study visits were undertaken to: Belgium, France, Germany, Italy, the Netherlands, Poland, Slovenia, Spain, Sweden, and the UK.

functions and organisational status of the support structure<sup>10</sup>. The feasibility study was finalised at the beginning of November 2008.

The first meeting of the Inter-Service Steering Group took place on 10 October 2008, bringing together representatives of different Commission departments involved in preparing the impact assessment<sup>11</sup>. It was convened to discuss the draft final report of the feasibility study. A second meeting took place on 7 November 2008 to discuss the draft impact assessment report prepared by JLS. Useful comments were given by the DGs represented during the meetings or sent afterwards in writing and were taken into account in the draft final report to be submitted to the Impact Assessment Board. In particular, SEC GEN (comments given during the meeting of 07/11/2008) and BUDG (comments given orally before the meeting) asked to reinforce the section detailing the preferred option, specifically the text and comparison table of institutional options.

### **1.3. The Impact Assessment Board**

The Commission's Impact Assessment Board (IAB) was consulted on the draft final Impact Assessment report and issued its opinion on 8 December 2008.<sup>12</sup> The IAB considered that "the report identifies a range of credible options for the institutional set-up of the asylum support office". The IAB formulated a number of recommendations, which have been taken into account in this report. The main recommendations were: (i) to improve the comparability of options (ii) Clarify the added-value of each task compared to the status quo, (iii) enhance the analysis of synergies of combining tasks into a single organisation and iv) Clarify problem definition and objectives by the new institutional structure.

## **2. PROBLEM DEFINITION**

### **2.1. Description of the problem**

The European Council of September 2008, when adopting the European Pact on Immigration and Asylum, solemnly reiterated that any persecuted foreigner is entitled to obtain aid and protection on the territory of the European Union in application of the Geneva Convention of 28 July 1951 relating to the Status of Refugees, as amended by the New York Protocol of 31 January 1967, and other relevant treaties. Though much progress has achieved in recent years as a result of implementing common minimum standards with a view to introducing the CEAS, considerable disparities remain between Member States on granting protection and on the forms that protection takes.

Legal instruments were adopted during the first phase of the CEAS. However, the practical implementation of the Directives reveals significant differences in processing

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<sup>10</sup> Czech Republic, Cyprus, Germany, Finland, France, Malta, Slovenia and the UK, UNHCR, GDISC and ECRE.

<sup>11</sup> SG, LS, BEPA, BUDG, ADMIN, IAS, EMPL, EAC, RELEX, DEV, ELARG, AIDCO, ECHO.

<sup>12</sup> The opinion will be available here: [http://ec.europa.eu/governance/impact/cia\\_2008\\_en.htm](http://ec.europa.eu/governance/impact/cia_2008_en.htm).

asylum applications both in terms of quality of assessment and in terms of diversity of processing across the Union. That is why the Commission, in the Policy Plan of June 2008 decided (1) to conduct a full-scale review of the asylum *acquis* to improve its content and (2) stressed the need, in parallel to this review, to enhance practical cooperation related to the CEAS.

Though practical cooperation related to the CEAS may be considered as already well developed, many aspects remain limited in scope and non-optimal and therefore need to be tackled.

## 2.2. Specific problems

The main problems as regards practical cooperation are the following:

- Discrepancy in practices and non-optimal exchange of best practices at EU level;
- Pressures on Member State asylum systems and over-burdening of some Member States, and
- Limited cooperation and coordination as regards the external dimension of the CEAS.

### 2.2.1. *Discrepancy in practices and non-optimal exchange of best practices at the EU level*

At present, applications for international protection are not treated equally across the EU. A key indicator of the unequal processing of applications is the substantial difference in the recognition rates between Member States concerning asylum seekers from the same country of origin. For instance, the recognition rate in Austria for persons coming from Afghanistan in 2006 was 84%, compared to 2% in Greece (see Annex 2, table 2.2. for more complete information — figures UNHCR)<sup>13</sup>. As a consequence, asylum seekers have very different prospects of finding protection, depending on where in the EU their applications are examined. It is necessary to ensure asylum seekers' right to a fair and efficient asylum procedure. The substantial differences in the assessment of protection needs from one Member State to another undermine the credibility of European efforts to build a common asylum system. It is often difficult to identify the reasons for these divergences in outcomes by Member States which, while applying similar substantive rules regarding the legal criteria to be applied in deciding on the need for protection, have in many instances widely differing case-loads and administrative capacities, as well as significantly different administrative practices, traditions and procedures. Member States may also have access to information on the situation in countries of origin which varies in terms of its comprehensiveness and reliability.

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<sup>13</sup> Other examples quoted in the Asylum Plan impact assessment as follows: on applications regarding asylum-seekers from Russia (mostly of Chechen background), in Austria 63% of decisions were positive while in Slovakia the percentage was 0%. 98% and 55% of Somali asylum-seekers got a positive decision in Malta and in the UK respectively while the percentage of positive decisions for the same group was 0% in Greece and Spain. In Belgium, 38% of Iraqi asylum-seekers received a positive decision, while in the UK that percentage was 20% and in Greece less than 2%.



As an example of the substantial differences across the EU in terms of decision-making in granting protection, in 2006 the share of total positive decisions (i.e. decisions granting international protection) varied considerably<sup>14</sup>, as follows:

- it ranges between 0% and 3% for total first instance decisions in some Member States, such as Slovakia (0.3%), Slovenia (1%), Greece (1.75%), and Cyprus (3%);
- it appears relatively limited in those Member States rendering the most asylum decisions across the EU: Germany (6.3%), France (7.7%), UK (18.3%);
- it is significantly higher in certain Member States: Austria (26%), Belgium (29%), Sweden (49%), Italy (56%); the data for Sweden are particularly notable considering that it was the second most important country of asylum in the EU in 2006.

Practical cooperation related to the CEAS is currently carried out in informal fora set up for this specific purpose. Some of these fora were set up by the Commission, such as EURASIL<sup>15</sup>, which is an expert group dealing with various aspects of practical cooperation related to CEAS, in particular exchanging Country of Origin Information, thematic asylum related issues and best practices among the 27 EU Member States, observer states<sup>16</sup> and the UNHCR. Others are external to the Commission, such as the General Directors' Immigration Services Conference (GDISC), which promotes operational cooperation between the Immigration Services responsible for the implementing immigration and asylum issues in Europe.

The informal nature of these fora and the fact that they do not have any decision-making power appear, however, often to be an impediment to quick and effective results. These fora provide information to participants, and to a certain extent exchange good practices and discuss the interpretation of concepts enshrined in the asylum *acquis*. However, no decision can be taken to ensure that best practices observed or tested are mainstreamed and no effective follow-up is organised. This leads to discrepancies in practices within the Union. It appears also that some Member States have a lot of expertise at national level which is not shared. This is the case particularly at judicial level. In each Member State, extensive national case law is often available but the interpretation of concepts enshrined in the asylum *acquis* differ between countries due to the fact that national judges are unaware of the decisions taken in other Member States of the Union. This can contribute to wide divergences in the decisions to be taken on cases that may appear to be similar from one country to another. Finally, the sustainability of the activities undertaken in these fora (see below, e.g. training activities, Country of Origin Information activities) is questionable due to resource problems and to a lack of a clear long-term budget.

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<sup>14</sup> Source of information: Asylum Plan.

<sup>15</sup> EURASIL, the EU network for asylum practitioners chaired by the Commission, was established in July 2002 following the decision of by the Committee of the Permanent Representatives (Coreper II) on 6 March to cease the activities of the CIREA group (Centre for Information, Discussion and Exchange on Asylum).

<sup>16</sup> Canada, Iceland, Norway, Switzerland and USA.

A clear illustration of the problem and need to improve practical cooperation related to the CEAS is the training of personnel in professions dealing in one way or another with access to the asylum procedure. The level of training varies across the Union. Some Member States have no experience in asylum as they have only recently become destination countries for persons requesting international protection. In these Member States, training is difficult to organise due to a lack of expertise. In the EURASIL meetings, stakeholders regularly express the need for better training at European level of personnel involved in the asylum assessment process. The experience of the European Asylum Curriculum, which is a joint training initiative, has proved to be useful for practitioners in the asylum field. So far, however, no other relevant initiative has been undertaken. The financial sustainability of the project is moreover not fully established. The same applies to training as there are no mechanisms to ensure that individual learning from staff exchange programmes or projects results in organisational learning (e.g. integrating practices, setting up or modifying training programmes).

The existing problems and the need to step up practical cooperation related to CEAS are also illustrated by the collection, organisation, assessment and presentation of Country of Origin Information (COI). These are all central to the asylum processes and decision making of EU Member States. COI enables the asylum authorities of Member States to verify statements made by applicants concerning their need for protection and to establish whether the applicant should benefit from international protection. It appears that for the time being, the absence of consistently high quality COI across all Member States may partly account for different recognition rates.

#### 2.2.2. *Pressures on Member States asylum systems and over-burden for some Member States*

Data on asylum applications relative to the size of the resident population of the Member States show some interesting findings about the distribution of the burden of asylum seekers across EU Member States.<sup>17</sup>

- Cyprus received by far the largest number of applications for asylum in relative terms in 2006 (5.9), followed by Malta and Sweden, with 3.1 and 2.7 applications respectively per thousand population.
- Belgium, Luxembourg, Austria, the Slovak Republic and the United Kingdom remained above the EU average of 0.4 in 2006 but showed a significant decrease in the number of applications per thousand population between 2003-2006.
- The new Member States (excluding Cyprus and Malta) were generally positioned below the EU average in 2006.

According to the feasibility study, some Member States, being traditional emigration countries, such as Spain, Italy, Greece, Poland and Malta have little experience in the area of asylum. Such countries have experienced difficulties in setting up and running an

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<sup>17</sup> Source: asylum plan. See also in annex 2 to this report, statistical data.

asylum system in a relatively short period of time, with limited human and financial resources to draw upon.

Some Member States suffer capacity problems concerning the processing of applications (insufficient numbers of trained staff) and the reception of asylum seekers (e.g. lack of housing and integration). This is currently addressed by the amendment to the reception conditions directive to be proposed by the Commission during the second phase of the CEAS. However, support to these Member States through practical cooperation needs to be increased in parallel.

Some Member States experience problems linked to high or mass influxes of persons seeking international protection, including Malta and Greece<sup>18</sup>. According to the feasibility study, stakeholders, such as the UNHCR and NGOs active in the asylum field indicate that difficulties to react in a timely manner to a mass influx results in backlogs in handling cases (procedures for hiring extra staff are often very time-consuming, as is training of new staff) and insufficient physical capacity to accommodate asylum seekers. For example, a recent press report from the local head of the UN refugee agency UNHCR said Greece was facing a crisis situation as it struggles to cope with an increasing number of migrants from the Middle East and Africa arriving on its long Mediterranean coast. This report states in particular that “(...) There is a backlog of some 20 000 cases waiting to be processed (...). Greece needs to deploy translators and legal councillors at reception centres along its frontier to ensure asylum requests are quickly and fairly processed, but there is an undue burden on the countries which have external borders in Europe”.<sup>19</sup>

It appears that the present level of practical cooperation in the area of solidarity, burden sharing and increasing capacity is limited. Only a few initiatives have been taken, often ad hoc and limited in scope, and have proved insufficient to efficiently support Member States confronted with mass influxes. For example, a few initiatives have been launched by ENARO (European Network of Asylum Reception Organisations<sup>20</sup>). The aim of cooperation is to develop best practice models for the reception of asylum seekers and examine trends and developments in the profile and numbers of asylum seekers. As such, it particularly addresses the problem that some Member States have little experience in the area of asylum or suffer capacity problems. The approach to achieve

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<sup>18</sup> See Annex 2, table 2.1.

<sup>19</sup> Fri 10 Oct 2008, 9:21 GMT, By Daniel Flynn, ATHENS (Reuters). Interview of Giorgos Tsarbopoulos, local head of the UN refugee agency UNHCR.

<sup>20</sup> Belgium: Fedasil; Czech Republic: Refugee Facilities Administration; Denmark: Danish Red Cross; Finland: Ministry of Employment and the Economy; Ireland: Reception and Integration Agency; Italy: Central Service of the Protection System for asylum seekers and refugees; Malta: Ministry for the Family and Social Solidarity; The Netherlands: Centraal Orgaan opvang Asielzoekers; Norway: HERO Mottak og Kompetanse AS; Spain: Ministerio de Trabajo Y Asuntos Sociales Dirección General de Integración de Los Inmigrantes; Sweden: Swedish Migration Board; Switzerland: Bundesamt für Migration Abteilung Empfangs- und Verfahrenszentren; and, United Kingdom: Kent County Council Service for Unaccompanied Asylum Seeking Children.

these aims involves exchange programmes for staff and experts, evaluations and activities to identify best practices. This form of cooperation should be scaled up and all stakeholders should be included in the process. Information for stakeholders could also be more efficient.

The European Refugee Fund (ERF) was created to address these problems of solidarity, burden sharing and capacity. Financial support is provided through ERF not only to increase the capacity of asylum systems in the Member States in general, but also to improve reception conditions and access to asylum procedures. However, the ERF clearly lacks the resources needed to effectively finance the real efforts made by Member States to implement refugee policy. As an example, the French asylum administration (OFPRA) alone costs approximately €50 million a year, while the total resources of the ERF for 2008, to be allocated to the 27 Member States are approximately €75 million<sup>21</sup>.

A reserve has recently been established for emergency measures<sup>22</sup>. This reserve can, from 2008, be used to address '*particular pressures situations resulting from sudden arrivals of large numbers [...] which place significant and urgent demands on Member States' reception facilities or asylum systems.*'<sup>23</sup>. It is however too early to assess the efficacy of this mechanism.

The project to establish a pool of interpreters addresses capacity problems in Member States and sudden pressures. The ARGO<sup>24</sup> project was initiated under the GDISC umbrella. The objective of the project was to set up a 'Rapid Capacity Team' for interpreters, addressing particular pressures when needs arise. Following the success of two pilot operations, the Interpreters' Pool was extended to include more countries and widen the pool of available languages and interpreters. Certain countries act as "donor" countries, sharing their interpreter capacity, and others are "beneficiary" countries. The scope of the pool has however remained limited; to date only a limited number of interpreting missions have been carried out. There are also concerns about the sustainability of the project and the availability of funding.

### 2.2.3. *Limited cooperation and coordination as regards external dimension of the CEAS*

The EU is the main destination for asylum-seekers among industrialised countries. Most refugees in the world live in poor regions close to areas of conflict, where resources for addressing their needs are scarce and where a durable solution for them is difficult to

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<sup>21</sup> Source of information: Asylum Plan.

<sup>22</sup> Council Decision 2001/55/EC of 20 July 2001 (10 million each year).  
[http://ec.europa.eu/justice\\_home/funding/refugee/funding\\_refugee\\_en.htm](http://ec.europa.eu/justice_home/funding/refugee/funding_refugee_en.htm).

<sup>23</sup> [http://ec.europa.eu/justice\\_home/funding/refugee/funding\\_refugee\\_en.htm](http://ec.europa.eu/justice_home/funding/refugee/funding_refugee_en.htm).

<sup>24</sup> ARGO is an action programme for administrative cooperation at European Union level in the fields of asylum, visas, immigration and external borders, replacing in part the Odysseus programme. See under [http://ec.europa.eu/justice\\_home/funding/2004\\_2007/argo/funding\\_argo\\_en.htm](http://ec.europa.eu/justice_home/funding/2004_2007/argo/funding_argo_en.htm).

attain.<sup>25</sup> The EU does not take its fair share in the responsibility for managing refugees with third countries and countries of first asylum, which receive a far greater percentage of the world's refugees than Europe. The external dimension is therefore an integral component of the CEAS and practical cooperation on the CEAS.

To date, the external dimension of the CEAS and related practical cooperation is limited to a few initiatives taken in the fields of resettlement and Regional Protection Programmes (RPPs).

- Resettlement is a durable solution for those refugees for whom return to their country of origin is not feasible and who cannot receive permanent protection in the third country either, among these particularly vulnerable persons. It implies the transfer of refugees from a third country in which they have sought asylum to an EU State that has agreed to grant them permanent protection there. Currently, resettlement is only available for a comparatively small number of refugees. In 2006, less than 1% of the almost 10 million refugees worldwide directly benefited from resettlement<sup>26</sup>. Between 2003 and 2007, EU Member States collectively resettled a mere 9% of the world's refugees (see Annex 2, Table 2.3 "EU share of refugees resettled worldwide" – Source UNHCR). Several governmental and non-governmental bodies in the EU are working to further expand resettlement. There has been some success in increasing Member State participation in resettlement, but so far the number of refugees resettled in the EU remains limited. There is also a lack of coordination between Member States to identify political and geographical priorities. This does not allow for a truly strategic use of resettlement at the EU level. Moreover, the lack of coordinated cooperation on practical and logistical aspects results in limited efficiency and extensive use of human and financial resources, and thus constitutes an obstacle to making a substantial and sustained EU commitment to resettlement. Lack of coordination also limits the scope for resettlement to develop its full potential as an integral component of the external policies of the EU, for instance, in the context of the Regional Protection Programmes (RPPs).

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<sup>25</sup> Most refugees remain in regions close to their countries of origin, without durable solutions and imposing a burden on poor, developing countries. By region, the CASWANAME region (Central Asia, South West Asia, North Africa and Middle East) is the world's most affected, with close to 4 million refugees, followed by Africa with close to 2.5 million. Europe comes third with 1.7 million refugees. The countries hosting the biggest refugee populations are, in decreasing order: Pakistan, Iran, the US, Syria, Germany, Jordan, Tanzania and the UK<sup>25</sup>. At the same time, in 2006, a total of 605 000 new or appeal applications for asylum or refugee status were submitted to Governments or UNHCR offices in 151 countries, and out of the total of 605 000 asylum applications lodged during 2006, some 504 000 (83%) requests were submitted for the first time. Most applications were registered in Europe (307 000), followed by Africa (159 000), the Americas (78 000), Asia (53 500), and Oceania (7 100). See also annex 2, table 2.3 "EU share of refugees resettled worldwide" – Source UNHCR.

<sup>26</sup> UNHCR Statistical Yearbook 2006, <http://www.unhcr.org/cgi-bin/texis/vtx/home/opendoc.pdf?id=478ce0712&tbl=STATISTICS>.

- Regional Protection Programmes (RPPs) were developed under the Programme for Freedom, Security and Justice for the years 2005 to 2010. They aim to enhance the protection capacity of the regions involved and provide Durable Solutions<sup>27</sup>. The RPPs are currently limited to two pilot regions that were selected by Member States in September 2005, namely Tanzania (Great Lakes region), as mainly a region of origin, and the Western Newly Independent States (WNIS) i.e. Ukraine, Moldova and Belarus, as mainly a region of transit. Limited coordination to assess particular refugee situations, set priorities, identify protection gaps and the specific steps to be taken means that the current RPPs have a limited scope, and a limited impact in improving protection and asylum systems in specific regions of the world which receive a far greater percentage of refugees than the EU. The Commission acknowledged the need to improve the RPPs in the Asylum Plan. It will evaluate the RPPs, which will be the basis for developing these programmes further.

### 2.3. How would the problem evolve, all things being equal?

The baseline scenario ('status quo') assumes that practical cooperation is developed in an ad hoc and decentralised way, with relatively few resources.

The current framework for practical cooperation related to CEAS only provides for financing ad hoc projects without much continuity. Resources would continue to be scarce and coordination between Member States is still under developed. The quality of country of origin information would continue to vary from one Member State to another and information would not be fully shared. EURASIL meetings would continue to be organised. However they have been held for years now without having a significant impact, for instance, on approximating decision-making practices, which are still very divergent. Without structural support (both from a human and financial resources point of view), it will be difficult to achieve the level of coordination necessary to reach convergence in the outcome of asylum decisions in the Member States. As regards the external dimension and related practical cooperation, an ad-hoc exchange of information would continue through Commission-chaired expert meetings on resettlement. There would however be no infrastructure to ensure structural support and coordination on EU-wide resettlement activities. This is all the more acute as the Commission is considering putting forward a proposal on a joint EU resettlement scheme. One important part of this will be improved coordination among EU Member states.

### 2.4. EU right to act

The current legal basis for Community action in the area of asylum policy is established in Article 63(1) and (2) TEC. These provisions state that the Council is to adopt "*measures on asylum, in accordance with the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees and other relevant treaties*" and also "*measures on refugees and displaced persons*" in areas such as Member State responsibility, reception conditions, refugee qualification, granting of

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<sup>27</sup> Communication by the European Commission COM (2005) 388 final on Regional Protection Programmes.

protection (including temporary protection) and balancing of Member States' efforts in receiving asylum-seekers.

As regard practical cooperation (in the field of asylum), the current legal basis is established in Article 66 TEC, which states that the Council, acting in accordance with the procedure referred to in Article 67, shall take measures to ensure cooperation between the relevant departments of the administrations of the Member States in the areas covered by title IV (visas, asylum, immigration and other policies related to free movement of persons), as well as between those departments and the Commission.

## **2.5. Subsidiarity test**

Community involvement in the asylum field is founded on the need for solidarity among Member States in addressing a challenge that, in an EU without internal borders, cannot be effectively dealt with by individual countries acting alone. This led to adoption by the Community legislator of the *acquis* in the field of asylum, on the basis of specific dedicated legal bases enshrined in the Treaty.

The need to act has already been assessed and established as regards the CEAS in recent impact assessment reports, and in particular in the impact assessment on the asylum policy plan<sup>28</sup>.

There have been repeated calls from the European Council, the Council and the European Parliament to develop a CEAS. The institutions of the Union committed to improving implementation of the *acquis* in the field of asylum and clearly expressed the view that strengthening practical cooperation between Member States on CEAS is the best way to improve the situation.

Due to the transnational nature of the problems related to international protection, the future support structure will be well placed to propose solutions under the CEAS to significantly reduce the differences and divergences between the implementation of national legislation. Regarding the subsidiarity principle, joint action and better practical cooperation within the future support structure is justified as a means to finding a joint solution to the problems described in this report, which have proven to be irresolvable purely at national level.

## **2.6. Proportionality test**

Regarding the proportionality principle, once the need for joint action at EU level is acknowledged (see above, under subsidiarity), it is necessary to assess how far EU measures should go and what mandate the future support structure should be given by the European legislator.

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<sup>28</sup> See sec(2008)2029 and sec(2008)2030.

The future support structure will be fully anchored in the CEAS. It will not be given any decision-making powers and will not replace the national asylum administrations. Its mandate will be limited to facilitating and strengthening all forms of practical cooperation between Member States relating to the CEAS.

In view of the clear and limited mandate of the future support structure, setting up this new Community institutional structure will not prevent further national action.

### **3. OBJECTIVES**

The objectives are set out in the table overleaf.



<b>General objectives</b>	<b>Specific objectives</b>	<b>Operational objectives (outputs and effects)</b>
<b>To improve fair and more harmonised processing of applications for international protection throughout the Union</b>	To reduce differences in implementing legislation, policies and operational practices, between Member States.	To improve the capacity, knowledge and know-how of the different actors involved in the asylum process.
	To reduce differences in the quality and content of Country of Origin Information and harmonise its collection, production and assessment.	To improve the collection and the quality of Country of Origin Information and make this accessible to all Member States with a view to improving its interpretation and assessment.
<b>To improve solidarity and burden-sharing between Member States in the field of asylum</b>	To reduce overburdening of some Member States.	To support Member States to build capacity and support those facing particular pressures on their asylum system and reception capacity.
	To improve the capacity of Member States to handle asylum requests, including situations of mass influx of asylum seekers.	
<b>To better manage refugee flows to the EU by expanding the external dimension of the CEAS</b>	To enhance the implementation of aspects related to the external dimension of asylum, such as Regional Protection Programmes and resettlement.	To increase the successful resettlement of applicants for international protection outside of the EU.
		To strengthen protection systems in third countries.

#### **4. POLICY OPTIONS**

In this chapter, two sets of policy options are analysed.

The first set of policy options sets out potential tasks and missions that a support structure may have (eight tasks and missions are described below under 4.1.).

The other set of policy options concerns the potential institutional organisation of the support structure to allow it to operate optimally. Eight main institutional options for establishing the support structure, which would fulfil the missions and tasks referred to under 4.1, are described under 4.2.

##### **4.1. Options for the tasks and missions of the future asylum support structure**

In view of the mandate given by the European Council to create the future support structure, and following the consultations of stakeholders organised during the feasibility study, a list of potential tasks to be entrusted to the future support structure is divided as follows, in the interest of clarity.

The objective in defining all the tasks to be entrusted to the future support structure is to fully ensure that the standards in practical cooperation related to CEAS will be improved throughout the Member States. No definition of tasks could be understood as leading to lower standards in the asylum policy<sup>29</sup>.

#### 4.1.1. *Exchange of best practices*

This covers the identification and exchange of best practices, lessons learnt and activities which could contribute to a more uniform interpretation and implementation of asylum legislation and a more equal treatment of asylum seekers in the different Member States. The support structure would draw on inputs provided by different stakeholders with relevant expertise (e.g. Member States, IGOs, NGOs, lawyers, case workers).

These tasks are part of the core tasks currently carried out by existing cooperation structures, such as EURASIL, GDISC<sup>30</sup> and IGC<sup>31</sup>, and supported by the Commission in JLS Directorate General.

#### 4.1.2. *Support to monitoring and quality control*

This covers mechanisms to support monitoring and quality control to ensure a more uniform interpretation and implementation of asylum legislation and a more equal treatment of asylum seekers in the different Member States. According to the Treaty provisions that define the role and competences of the Commission, the Commission is responsible for enforcement, transposition and implementation of the CEAS legislative instruments. The support structure would therefore be limited to supporting the Commission in its task, in particular by collecting information and reporting on the state of transposition and implementation of the Directives in each of the Member States, by developing benchmarks and standards by which progress can be measured, by coordinating peer learning activities, whereby Member States are asked to evaluate and learn from their peers and by coordinating corrective action undertaken by the Member States.

Monitoring and quality control by the Commission of the enforcement, transposition and implementation of the CEAS legislative instruments is today facilitated by the

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<sup>29</sup> See also Asylum Policy Plan in this respect.

<sup>30</sup> During the NL Presidency of the EU in July 2004, a Conference was held in Rotterdam entitled 'Immigration Services Together in the New Europe'. The Conference was aimed at General Directors of European Immigration Services. During this conference it was concluded that there was added value in face-to-face contact with European counterparts and the General Directors agreed to meet every year. A network was established in order to facilitate practical cooperation. This network was named GDISC - General Directors' of Immigration Services Conference.

<sup>31</sup> The starting point for the IGC was a conference held in May 1985 under the auspices of UNHCR to consider "The Arrivals of Asylum-Seekers and Refugees in Europe". There were follow up discussions and seven States decided to launch an informal consultative process to study the challenges facing the asylum system and possible solutions. A coordinator for the IGC was appointed within UNHCR headquarters in 1987 as head of a unit responsible for the preparation of meetings of senior officials. In 1990, this unit was reorganised as the IGC Secretariat. In 1991, the Secretariat became an independent entity with funding provided by States. At present, there are sixteen members of IGC: 10 EU States (Australia, Belgium, Denmark, Finland, Germany, Greece, Ireland, the Netherlands, Spain, Sweden, and the United Kingdom), 2 non-EU countries: Switzerland and Norway, and 4 overseas countries: Canada, US, New Zealand and Australia.

organisation of meetings of the Contact Committees<sup>32</sup> established under the different instruments, but also via the discussions which take place in the context of Eurasil, GDISC, and the IGC. The UNHCR<sup>33</sup> also has a role to play in this regard.

#### 4.1.3. *Joint processing of asylum applications at the EU level*

This covers the joint processing of asylum applications at EU level by the support structure on behalf of the Member States. This could be limited to the joint processing of certain asylum applications at EU level, for example those for Member States under particular pressure or those that Member States consider highly complicated. At present, no such joint processing takes place.

#### 4.1.4. *Activities to improve the collection and quality of Country of Origin Information (COI) / improve assessment of COI*

These tasks are part of the core tasks currently carried out by existing cooperation structures, such as EURASIL, GDISC, the IGC, the UNHCR and the Red Cross (Accord/ecoi.net<sup>34</sup>) and are supported by the Commission in JLS Directorate General.

In light of the considerable work already undertaken in this area by the Commission and other actors, and the wide range of existing COI sources, the support structure would be in charge of a large number of coordination tasks:

- organising the management and maintenance of the COI portal, integrate existing COI in the portal and keeping it updated;
- pooling existing information and expertise on a particular country of origin and asylum thematic related issues available from actors on the ground (e.g. Member States, Commission, Commission delegations, UNHCR field offices, local NGOs);
- coordinating fact-finding missions by bringing together States with an interest in or are about to gather COI in a particular asylum sending country to avoid overlaps;
- enhancing the accessibility of COI and promoting its use (e.g. translation of documents);
- coordinating and developing best practice exchanges, with a view to enhancing consistency of COI interpretation and developing guidelines and benchmarks on how to interpret COI;

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<sup>32</sup> As a basis for evaluation and to better coordinate the implementation of the asylum measures as well as the measures adopted on migration, the Commission organises a structured exchange of views on how Member States implement and apply the legislation recently adopted through the establishment of Contact Committees for each of the relevant instruments. The Commission regularly convenes the Contact Committees which offer a platform for the exchange of views on the interpretation of the provisions of the Directives and the Regulations to facilitate the early identification of possible problems and questions and offer an opportunity to enhance the value of the legislation through an agreed common interpretation and a common methodology of implementation.

<sup>33</sup> Quality initiative project See under 4.1.4

<sup>34</sup> The Quality Initiative Project (2004-2009) is based on the supervisory role of UNHCR under the 1951 Refugee Convention and its aim is to assist the UK Home Office in improving further the quality of first instance decision-making. On the basis of its audit, UNHCR has highlighted a number of causes for concern, focusing in particular on the application of the refugee definition, the approach to establishing the facts ('credibility') and the conduct of interviews.

- gathering information on the various policies implemented in the different Member States and on how judges, case workers and other decision-makers reach different interpretations of COI;
- creating an overview of the current initiatives to promote joint and/or similar interpretation of COI.

#### 4.1.5. *Pool of asylum experts*

The support structure could provide practical assistance to Member States with overall capacity and resource problems, for example, by creating, managing, coordinating and deploying joint pools of interpreters, translators and other experts. The following fields could be covered:

- Interpreting;
- Humanitarian assistance;
- Assisting in the process of information collection to support decision making;
- Pre-screening;
- Translating documents and
- Sharing information on interview techniques.

The GDISC-led project creating an Interpreters pool<sup>35</sup> provides a good example of how to deal with capacity and resource-related challenges in situations of particular pressure. Another entity which can be mentioned is ENARO, which is an ‘inter-institutional linkage’ between European organisations active in the area of the reception of asylum seekers<sup>36</sup>. It facilitates cooperation in order to develop best practice models for the reception of asylum seekers and examine trends and developments in the profile and numbers of asylum seekers. As such, it particularly addresses the issue of how to deal with capacity and sudden pressure situations. The approach adopted to achieve these aims involves exchange programmes for staff and experts, evaluations and activities aimed at identifying best practices. In addition, activities initiated on a more ‘ad hoc’

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<sup>35</sup> Twelve countries (UK, Germany, Netherlands, Norway, Lithuania, Latvia, Croatia, Czech Republic, Romania, Turkey, Bulgaria and Slovakia) indicated their interest in joining this project: UK, Germany, Norway and Netherlands volunteered to act as donor countries; Norway, Lithuania, Latvia, Croatia, Czech Republic, Romania, Turkey, Bulgaria and Slovakia were to be the beneficiaries. Norway was to act both as donor and as beneficiary in the project.

<sup>36</sup> Belgium: Fedasil; Czech Republic: Refugee Facilities Administration; Denmark: Danish Red Cross; Finland: Ministry of Employment and the Economy; Ireland: Reception and Integration Agency; Italy: Central Service of the Protection System for asylum seekers and refugees; Malta: Ministry for the Family and Social Solidarity; The Netherlands: Centraal Orgaan opvang Asielzoekers; Norway: HERO Mottak og Kompetanse AS; Spain: Ministerio de Trabajo Y Asuntos Sociales Dirección General de Integración de Los Inmigrantes; Sweden: Swedish Migration Board; Switzerland: Bundesamt für Migration Abteilung Empfangs- und Verfahrenszentren; and, United Kingdom: Kent County Council Service for Unaccompanied Asylum Seeking Children.

basis are relevant for addressing problems in terms of better preparedness (e.g. exchange of information on a software system to manage reception capacities.)<sup>37</sup>

#### 4.1.6. *Intra-EU relocation*

In the Policy Plan on Asylum (Section 5.1.2.), the Commission indicates that “the best way to ensure a high degree of solidarity is not to adopt a new overarching instrument on intra-EU relocation, but to put at the disposal of Member States a series of mechanisms, which will help them cope with the variety of challenges they are faced with”. The Commission indicated during the discussion on the adoption of the Immigration and Asylum Pact (adopted in October 2008 by the European Council) that an assessment should be carried out of the potential impact of measures taken to facilitate the internal relocation of beneficiaries of international protection. The study should assess, in particular, the nature and characteristics of migratory flows in the Member States concerned, the situation in the countries of origin and the risks of creating pull effects.

This would imply that the support structure could manage and coordinate any future intra-EU relocation scheme which would ensure that a proportion of arrivals are transferred to other Member States, based on their capacity and willingness. It could support the scheme by, for example, developing guidelines on selecting people for relocation and identifying Member States interested in relocation. No such intra-EU relocation instrument exists at present.

#### 4.1.7. *Training and capacity building*

This would include providing training and capacity building assistance to help Member States develop a joint asylum curriculum and provide training and capacity building programmes for state officials and potentially a wider range of stakeholders involved in the asylum process. The European Asylum Curriculum (EAC), which is currently being developed by GDISC, constitutes a key component of these activities, as it represents a prime example of the benefits that can be gained from EU practical cooperation in the area of asylum. In addition, general and specific expertise on, for example, torture victims and unaccompanied minors, is required by national asylum administrations.

Training national asylum service personnel is central to implementing the CEAS. Agreement on key principles of good practice for administrative aspects such as interviewing and decision making provides a firm basis for greater convergence in practice and administrative methods.

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<sup>37</sup> According to Fedasil, which considers ENARO to be a good initiative, it is key to learn from aspects that work well in other countries and build on existing experiences and know-how instead of ‘reinventing the wheel’.

The support structure would therefore be in charge of:

- managing the EAC (European Asylum Curriculum). The EAC project<sup>38</sup> is led by Sweden under G DISC umbrella (which promotes operational cooperation between the Immigration Services responsible for implementing immigration and asylum issues in Europe, see above under 2.2.1) and involves a range of governmental and non-governmental bodies. The support structure would coordinate the development and promotion of EAC and ensure its sustainability (financing and updating);

- identifying training needs in Member States;

- conducting capacity assessments of Member States;

- mapping existing (general and specific) expertise in training and capacity building in Member States and

- matching training and capacity needs with expertise and resources, and coordinating exchanges (e.g. study visits).

It will organise general and specific training sessions, e.g. training targeting a specific public (e.g. judges / case-workers) or on specific issues (e.g. how to deal with EAC / treatment of vulnerable persons or unaccompanied minors / access and use of COI portal)<sup>39</sup>.

#### 4.1.8. *Activities linked to the external aspects of practical cooperation linked to the CEAS: resettlement and RPPs*

The Hague Programme called for the establishment of a joint resettlement programme in the framework of Regional Protection Programmes. In the Policy Plan on asylum, the Commission announced that it would propose an initiative on this issue in 2009. The Commission is therefore committed to improving and developing the external aspects of CEAS.

The support structure could have an advisory and/or coordination role in developing and implementing Regional Protection Programmes and in developing and implementing resettlement schemes.

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<sup>38</sup> The EAC is a EU Member State initiative intending to enhance the capacity and quality of the European asylum process as well as to strengthen practical cooperation among the European asylum/immigration systems. The cooperation between the Odysseus Academic Network and the Swedish, Dutch, Czech and Spanish Immigration Services aims to create a European Asylum Curriculum, which will provide common vocational training for employees of the Immigration and Asylum Services in Europe. This project is funded by the EU (ERF) and executed under the auspices of the General Directors' Immigration Services Conference (GDISC). The European Commission sits on its reference group. The EAC project update has been presented in Eurasil meetings, both at the normal plenary and judges meetings.

<sup>39</sup> In addition to this, for example, the Red Cross have developed several capacity building initiatives concerning COI, including the development of a training manual, organisation of seminars and query services (see Annex 3). EAC also contains a module to improve knowledge and initial skills concerning the role of COI in the context of refugee status determination

This would include, as regards RPPs

- monitoring the progress of activities in RPP countries,
- providing expertise and liaising with other stakeholders in order to ensure complementarity of activities.

As regards resettlement, the support structure would have the following tasks:

- drawing upon existing input from different bodies (e.g. States' and NGOs views on the process and outcomes of twinning activities or EU-funded programmes; the discussions held in the Commission expert group on resettlement and in the IGC workshop; research undertaken by UNHCR), with a view to exploring joint positions and priorities;
- storing the information in a central location (e.g. portal);
- making this information available to a wide audience;
- promoting active learning (e.g. e-learning, discussion forums, seminars).

Some governmental and non-governmental actors in the EU have been collaborating, largely in a limited or exploratory way, in the area of resettlement. There has also been a launch of new 'twinning' activities between existing and new or prospective resettlement countries in the EU. The primary aim of twinning projects and other forms of information exchange is to build the capacity of the national administrations, which in the near future may be responsible for the design and implementation of resettlement. Some actors are also actively sharing ideas on how to create political will for resettlement<sup>40</sup>. In addition to this, resettlement is also discussed in the IGC. Workshops on resettlement have been organised in which existing resettlement countries, such as the USA, share their experiences with EU partners. The Commission has furthermore initiated an expert group on resettlement, whose purpose is to share best practices on resettlement and to discuss the results of the different projects on resettlement, in order to make Member States which are not currently resettlement countries familiar with resettlement and to examine which aspects EU cooperation on resettlement would be most fruitful.

## **4.2. Options for the institutional format of the future asylum support structure**

### *4.2.1. Status quo*

No changes would be made to the current situation in relation to practical cooperation in the asylum field. Existing delivery mechanisms, i.e. very limited number of staff in charge of practical cooperation<sup>41</sup> within the unit dealing with asylum policy in Directorate General Justice, Freedom and Security, would be maintained at the current level.

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<sup>40</sup> E.g. Vluchtelingenwerk Vlaanderen; Amnesty International Germany.

<sup>41</sup> At present, AD staff dedicated to practical cooperation tasks in the Commission unit dealing with asylum policy: 1,5.

#### 4.2.2. *Strengthening the European Commission by increasing human and financial resources*

The Commission would be responsible for the delivery of practical cooperation linked to the CEAS and would undertake this internally, by setting up a dedicated unit within the Directorate General for Justice, Freedom and Security. The unit would be managed by a Head of Unit, possibly assisted by a Deputy Head of Unit and Heads of sectors, each managing small teams within the unit in charge of specific aspects of practical cooperation.

The unit could be either integrated into the present directorate of the Directorate General currently dealing with asylum and immigration policy or be under the direct responsibility of the Director-General to give it prominent political visibility.

#### 4.2.3. *Creating a new network*

A new network would be created on the basis of a Council decision, for example under Article 66 TEC (practical cooperation). It would comprise a secretariat and receive a dedicated budget line for its activities. The secretariat would be responsible for the day-to-day management of the network. The network would employ few staff at central level, but in order to ensure consistent national inputs, human resources could be allocated to national ‘units’ consisting of Member State authorities and / or other relevant bodies.

The network would build on the existing network structures and would not absorb any existing structures. It would be supported by a steering group (to be created) consisting of Member State representatives and other relevant bodies (e.g. UNHCR). This steering group would need to be coordinated by the Commission. The network could either merge current relevant activities in the field of practical cooperation, such as those carried out by EURASIL and GDISC, or coordinate such activities, thus acting as an ‘umbrella’ network. Additional tasks and functions could be added gradually.

The working method of the network would be the “*Open Method of Coordination*” (OMC). Set up at the Lisbon European Council of March 2000, the OMC provides a framework for political coordination without legal constraints. Member States agree to identify and promote their most effective policies with the aim of learning from each others’ experiences. This is a flexible and decentralised method, which involves: (1) agreeing to common objectives which set out high-level, shared goals to underpin the entire process; (2) agreeing to a set of common indicators which show how progress towards these goals can be measured; (3) preparing national strategic reports, in which Member States set out how they will plan policies over an agreed period to meet the common objectives; (4) Evaluating these strategies jointly with the European Commission and the Member States. The OMC is e.g. used in the fields of Social Protection and Social Inclusion. It has never to date been used in the Justice, Freedom and Security fields.

The Commission would be responsible for the overall coordination and management of the network.



#### 4.2.4. *Creation of the European Asylum Support Office as a regulatory agency*

The European Asylum Support Office could be a structure with the institutional and operational design of a regulatory agency. A European regulatory agency is defined as an independent legal entity created by the legislator in order to help regulate a particular sector at the European level and help implement a particular Community policy. By performing its tasks, it helps to improve the way in which the rules are implemented and applied throughout the EU<sup>42</sup>.

The legal basis for the office, to be established through a regulation of the European Parliament and/or Council, could be Article 66 TEC (practical cooperation) and/or Article 63 TEC (asylum policy).

The European Asylum Support Office would have *no decision-making powers*. Its activities would involve measures of an incentive nature, such as co-regulation, self-regulation, recommendations, referral to the scientific authority, networking and pooling good practice, evaluating the application and implementation of rules, etc<sup>43</sup>. Relationships with external bodies would be established, e.g. with UNHCR, external bodies (e.g. GDISC, ENARO ...) and NGOs (e.g. ECRE, Red Cross). UNHCR would have a formally defined and strong role in the regulation establishing the office.

As far as financial rules are concerned, the European Asylum Support Office would be created under Article 185 of the Financial Regulation<sup>44</sup>. The financial basis for the future agency would be a dedicated Community budget line. The decision over its seat, not to be in Brussels or Luxemburg, would be taken by Heads of State and Governments. It could be situated in a new Member State<sup>45</sup>.

The office would be managed by its Management Board, composed of representatives of Member States and the Commission. The day-to-day management of the office would be entrusted to a Director, nominated by the Management Board upon a proposal by the Commission.

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<sup>42</sup> See draft interinstitutional agreement on the operating framework for the European regulatory agencies (Com(2005)59).

<sup>43</sup> See draft interinstitutional agreement on the operating framework for the European regulatory agencies (Com(2005)59).

<sup>44</sup> Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities, OJ L 248, 16.9.2002, p. 1–48. See in particular article 185.1: “1. *The Commission shall adopt a framework financial regulation for the bodies set up by the Communities and having legal personality which actually receive grants charged to the budget. The financial rules of these bodies may not depart from the framework regulation except where their specific operating needs so require and with the Commission’s prior consent.*”.

<sup>45</sup> See conclusions of the representatives of the Member States on the location of the seats of certain offices and agencies of the European Union, 13/12/2003, OJ L 29/3.02.2004.

#### 4.2.5. *Incorporation of the support asylum structure into an existing regulatory agency*

For reasons of economies of scale, it could be envisaged that the activities to be entrusted to the asylum support structure be merged into an existing or future regulatory agency.

There are three sub-options:

- merge into FRA (Fundamental Rights Agency),
- merge into FRONTEX (European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union),
- merge into the future JLS IT Agency (Agency for the operational management of SIS II, VIS and EURODAC and other large-scale IT systems in application of Title IV of the EC Treaty).

These options are studied by the Commission in this impact assessment report, for the sake of completeness of this report, as supplementary options to the ones that were envisaged by the stakeholders during consultations made in the context of the preparation of the asylum policy plan and consultations specifically carried out for preparation of this impact assessment report. It must be emphasized that no stakeholder, Member States or non-governmental organisations consulted during the consultation process proposed these options.

These three agencies are or will be regulatory agencies (see above under 4.2.4.).

##### 4.2.5.1. FRA (Fundamental Rights Agency)

The European Union Agency for Fundamental Rights (FRA) was established by Council Regulation (EC) No 168/2007 of 15 February 2007<sup>46</sup>. The Agency's goal is to provide relevant institutions and authorities of the European Community and its Member States with assistance and expertise on fundamental rights when implementing Community law, and to support them in taking measures and formulating appropriate courses of action. The Agency is not empowered to examine individual complaints or to exercise regulatory decision-making powers. The Agency's specific areas of work are laid down in a five-year Multiannual Framework (Decision (2008/203/EC), adopted by the Council after consultation with the European Parliament. The fight against racism, xenophobia and related intolerance is one of the main priority areas of the FRA. The Agency works closely with other institutions and bodies, operating at both national and European level, and develops a fruitful cooperation with the Council of Europe and civil society, for instance through the creation of a Fundamental Rights Platform.

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46 OJ L 53/2 22.2.2007.

Should the FRA take over the tasks to be entrusted to the future asylum support structure, it would create a dedicated department for this purpose. Since it is an existing agency, some of the existing horizontal departments, such as administration, finance and procurement could be shared.

Currently, the FRA is fully dedicated to information tasks and does not have experience in dealing with practical cooperation in the field of asylum.

Should the FRA be put in charge of the tasks to be entrusted to the future asylum support structure, the Management Board would need to be reconfigured. The legal basis of the FRA, Article 308 TEC (implicit powers), could remain, but reference could also be made to Article 66 TEC (practical cooperation) and/or to Article 63 TEC (asylum policy).

FRA has its headquarters in Vienna (Austria).

#### 4.2.5.2. FRONTEX (European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union)

FRONTEX was established by Council Regulation (EC) 2007/2004<sup>47</sup>. It coordinates operational cooperation between Member States on managing external borders, assists Member States in training national border guards, including the establishment of common training standards; carries out risk analyses, follows up the development of research into control and surveillance of external borders, assists Member States in circumstances requiring increased technical and operational assistance at external borders, and provides Member States with the necessary support in organising joint return operations. It cooperates closely with other Community and EU partners responsible for the security of external borders, such as EUROPOL, CEPOL, OLAF, the customs cooperation and the cooperation on phyto-sanitary and veterinary controls, in order to promote overall coherency. FRONTEX strengthens border security by ensuring the coordination of Member States' actions to implement Community measures on managing external borders.

Should FRONTEX take over the tasks to be entrusted to the future asylum support structure, it would create a dedicated department for this purpose. Since it is an existing agency, some of the existing horizontal departments, such as administration, finance and procurement could be shared.

Currently, FRONTEX is fully dedicated to illegal immigration and does not have experience in dealing with practical cooperation in the field of asylum.

Should FRONTEX be put in charge of the tasks to be entrusted to the future asylum support structure, the Management Board would need to be reconfigured. It is currently

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<sup>47</sup> OJ L 349/25.11.2004.

composed of high level representatives of national administrations dealing with illegal immigration.

The legal basis of FRONTEX could need changing, by adding the legal basis of Article 63 TEC (asylum policy), should this be considered as necessary to entrust it of full activities related to practical cooperation in the field of asylum.

FRONTEX has its headquarters in Warsaw (Poland).

#### 4.2.5.3. JLS IT Agency (Agency for the operational management of SIS II, VIS and EURODAC and for the development and the management of other large-scale IT systems).

The future Regulation being prepared by JLS aims to establish an Agency centred on the operational management of large JLS IT systems. It will therefore be responsible for the long-term operational management of the second generation Schengen Information System (SIS II), the Visa Information System (VIS) and EURODAC. It also aims to lay down the framework for developing and managing other large-scale IT systems in application of Title IV of the EC Treaty and Title VI of the EU Treaty.

Should the IT agency take over the tasks to be entrusted to the support asylum structure, it would create a dedicated department for this purpose. Some of the horizontal departments, such as administration, finance and procurement could be shared.

The proposal for establishing the IT agency is due to be adopted by the Commission in January 2009. It will then be in the hands of the legislator for adoption of the founding act establishing it. This IT agency, when created, will be a new regulatory agency and will face the difficulties inherent in setting-up and creating any new body from scratch. This may severely delay the setting-up of the support asylum structure, whilst the European Council expressly called for its rapid establishment.

This IT agency will be fully dedicated to technical IT management of large JLS IT-systems. It will have no mandate as regards gathering information in the field of asylum, being a centre of European expertise on asylum (except management of IT JLS systems), networking and pooling good practice, evaluating the application and implementation of rules in the field of asylum policies.

The legal basis for the IT-Agency would need a change. The present legal basis covers Articles 62(2)(a), 62(2)(b)(ii), 63(1)(a), 63(3)(b) and 66TEC. As far as asylum policy is concerned, the legal basis of the IT-Agency would have to be enlarged, since it is presently restricted to the aspects covered by 63(1)(a) and 63(3)(b), should this be considered as necessary to entrust it of full activities related to practical cooperation in the field of asylum (question of choice of legal basis for the support structure: article 63 and/or article 66).

The headquarters of the future IT Agency have not yet been decided.

#### 4.2.6. *Creation of a Common EU Support Authority (decision-making body)*

The Common EU Asylum Authority would be a structure with the institutional and operational design of a regulatory agency, created by secondary law (Regulation). Its financial basis would be a dedicated budget line. It could in the longer term fully lead all practical cooperation in the field of asylum, have responsibility for external action on behalf of the Member States and become the single EU determining authority to effectively implement a common asylum procedure for applications lodged in the EU, taking into account that the *acquis* would have been amended accordingly.

## 5. **IMPACT ANALYSIS**

The report will attempt to identify the direct and indirect, short-term and long-term impact of the options. The social impact on asylum seekers are identified as the fundamental rights of asylum seekers which will be better protected, and their social integration in the Union (e.g. education, training, access to work) will be improved. As regards the environmental impact, limited impact could be identified if a new institutional structure is created outside Brussels. This would entail limited environmental pressure on the host town (new office building to be found / travelling of people from there to other places in Europe where meetings would be organised). The most significant impact identified will be analysed as regards the tasks entrusted to the support structure and in institutional terms.

### 5.1. **Impact of options for tasks and missions of the future support structure**

#### 5.1.1. *Exchange of best practices*

These tasks are part of the core tasks currently carried out by existing cooperation structures, such as EURASIL, GDISC and partially the IGC and supported by the Commission's JLS Directorate General. According to the Commission, they therefore belong to the core tasks of the future support structure. There is a clear need to find ways in order to provide better quality information, a more systematic and far-reaching exchange of best practice and greater synergy compared to the current activities taking place in multiple fora. A comprehensive approach and efficient coordination is needed. This situation could be improved by the support structure taking a clear lead in the exchange of information and best practices.

Stakeholders identified these tasks as important, all giving their strong support, in particular from existing cooperation structures which are already seeing the benefits of such exchanges as part of their own activities. The transfer of these tasks appears to enjoy full support from the Member States and European Parliament, thus it appears politically feasible.

As these tasks are part of the core tasks of the future support structure, their costs would be medium to high. These costs would also cover the costs involved in providing support to monitoring and quality control (see under 5.1.2.). In view of the extensive character of

these tasks, the costs must be therefore assessed as covering most of the costs related to tasks undertaken by the support structure. Moreover, the national inputs to practical cooperation would initially continue to exist and gradually be reduced, due to greater efficiencies (for more details see under 5.2, cost analysis of the options in institutional terms).

Exchanging best practices will allow the Member States to compare different practices with a view to retaining the best ones, and learning from each others. This should allow approximation of diverging practices and favour a better and more uniform interpretation and implementation of asylum legislation and fully contribute to the general objective of improving fair and more harmonised processing of applications for international protection through the EU.

The detailed costs of these tasks are evaluated in the financial tables contained in the annexes to this report as part of the cost-analysis report of the institutional options. These costs are assessed for each institutional option assessed in this report (six options assessed - see under 5.2 here below in this report) under different items (risks and needs analysis / direct support / capacity building and training / planning, research and development) per group of tasks that require that kind of financial support. The costs for exchange of best practices appear under the items risks and needs analysis / capacity building and training / planning, research and development, in view of the scope of their activities and the importance in these tasks of the future support office.

Entrusting these tasks to the support structure would be likely to have a very positive impact on the evolution of the asylum *acquis* and its practical implementation within the Member States and be a good level of feasibility.

#### 5.1.2. *Support to monitoring and quality control*

These tasks will allow the Member States to compare their practices, as well as the way of transposing and implementing the different directives belonging to the *acquis*. It will help to inform the Commission's preparation of legislative amendments or assist the Commission in its monitoring and evaluation role.

This task received an overall high support level from the stakeholders consulted during the feasibility study. There were however some concerns over the definition of monitoring as a task. This task is closely linked to other tasks, such as identifying continuing differences in legislation, policies and practices and exchanging best practices.

Exchanging best practices, to which this task is linked, should allow approximation of diverging practices, *de facto* and *de jure*, favour a better and more uniform interpretation and implementation of asylum legislation and improve fair and more harmonised processing of applications for international protection through the EU.

The detailed costs of these tasks are evaluated in the financial tables contained in the annexes to this report as part of the cost-analysis report of the institutional options.

These costs are assessed for each institutional option assessed in this report (six options assessed - see under 5.2 here below in this report) under different items (risks and needs analysis / direct support / capacity building and training / planning, research and development) per group of tasks that require that kind of financial support. The costs for exchange of best practices appear under the items risks and needs analysis / capacity building and training / planning, research and development, in view of the scope of the activities and their importance in these tasks of the future support office.

These tasks, fully linked to costs linked to exchanging best practices, would entail medium to high costs. In view of the extensive character of these tasks, the costs must be therefore assessed as covering most of the costs related to tasks undertaken by the support structure. Moreover, national inputs to practical cooperation would initially continue and gradually be reduced, due to greater efficiencies (for more details see under 5.2, cost analysis of the options in institutional terms).

Entrusting these tasks to the support structure appears therefore to have a very positive impact on the evolution of the asylum *acquis* and its implementation within the Member States, and a good level of feasibility. The monitoring and quality control which is today to some extent carried out in the context of Contact Committees, Eurasil, the IGC and the UNHCR is not sufficiently thorough and systematic to meet the needs of the Commission and Member states in this regard. Current oversight tends to be ad hoc in nature, and does not adequately or quickly identify shortcomings in the creation of the CEAS. The support office could adopt a more comprehensive and timely approach to monitoring and quality control, including - for example - by carrying out studies or “peer reviews” aimed at identifying failures or shortcomings in the adoption and/or implementation of legislation. In addition to this, adequate long-term financing of these tasks is also very important.

### 5.1.3. *Joint processing of asylum applications at EU level*

Legally and politically, these tasks cannot yet be deemed to be feasible.

As the way in which the CEAS in the Member States currently differs widely as regard its national implementation, it would be impossible to envisage any joint processing before further harmonisation and approximation of CEAS instruments, approximation of practices, common interpretation of criteria and concepts and implementation based on the same basis throughout the Union has been put in place.

The European Council has made it clear that the support structure will not be a decision-making body. Joint processing at the European level would therefore be legally unfeasible, as it would entail at least some aspects of joint decision-making at European level or giving some decisional power to the support structure on national requests for international protection.

Legally speaking, as the support structure will be created under secondary law, it can rely only on what is currently provided for in the present *acquis*. The modifications

planned to revise the CEAS *acquis* within the context of the second phase of CEAS do not allow for decisional powers to be entrusted to a support structure at the European level.

This option received low support from stakeholders consulted during the feasibility study. The overall message from workshop participants was that this task is politically unfeasible for the time being. While some actors have expressed an interest in exploring or researching the issue of joint processing, they have been systematically discouraged by political considerations. Member States consider the processing of applications for international protection as an issue of national sovereignty.

Notwithstanding the contribution this option could bring to the objectives defined under 3., the Commission discards this option due to the very low feasibility given the current legal and political difficulties.

The costs for this task do not appear in the financial tables contained in the annexes to this report as part of the cost-analysis report of the institutional options as this task appears unfeasible.

#### *5.1.4. Activities to improve the collection and quality of Country of Origin Information (COI) / improve assessment of COI*

Overall high support was given to COI tasks, both by Member States and other bodies. COI activities were deemed by stakeholders and Member States to be of utmost importance for the future development of an approximated *acquis* in the field on asylum and a more uniform decision-making process in the different Member States.

COI tasks, and in particular the creation and management of the COI portal and related training activities, would improve the collection and the quality of Country of Origin Information and make this accessible to all Member States with a view to improving its interpretation and assessment. This would therefore help improve fair and more harmonised processing of applications for international protection throughout the Union.

The detailed costs of these tasks are evaluated in the financial tables contained in the annexes to this report as part of the cost-analysis report of the institutional options. These costs are assessed for each institutional option assessed in this report (six options assessed - see under 5.2 here below in this report) under different items (risks and needs analysis / direct support / capacity building and training / planning, research and development) per group of tasks that require that kind of financial support. The costs for activities related to COI appear under title 2 of the financial breakdown (building, equipment and infrastructure expenditure) in view of the fact that the COI portal will be an important IT system to be managed by the future support structure and under title 3 of the financial breakdown (operations), under the items risks and needs analysis / capacity building and training / planning, research and development, as well, in view of the scope of these activities and their importance in the tasks of the future support office.



These core tasks are currently mainly carried out by a variety of existing cooperation structures, networks or international organisations, including in particular EURASIL, the UNHCR, the IGC and the Red Cross (Accord/ecoi.net). While it is clear that efforts to improve the collection and quality of COI are currently being undertaken by a variety of actors, it would be very desirable to create a more common approach and to develop more efficient cooperation in order to avoid overlaps and provide cost effectiveness, synergy and better quality information. Common training is needed for the collection and production of quality COI. Member States also need better guidance and know-how in order to assess it, since they sometimes interpret COI very differently. This, together with national differences in who legally qualifies for international protection, may to some extent account for the diverging recognition rates across the European Union. Improving the collection and quality of COI should go some way toward reducing these divergences in decision making, and to that end the development by a support structure of common training, guidelines and access to the relevant COI (e.g. via an EU wide COI-portal) are needed.

Entrusting these tasks to the support structure appears therefore to have a positive impact on the practical cooperation related to CEAS and a high level of feasibility.

#### 5.1.5. *Pool of asylum experts*

It appears difficult for a support structure at the European level to establish and manage internally a pool of asylum experts and other relevant professionals to address particular pressures in Member States. It would be almost impossible for a structure at European level to cover all different legislative / regulatory national contexts and languages in the field of asylum. It must be recalled that, in the asylum field, a very high number of non-European languages have to be covered. This would entail significant numbers of staff in the support structure dedicated to these tasks, which is impractical, given the priorities to be defined for the future Support structure as regards deliverables. This also raises concerns over the proportionality of this measure.

Many stakeholders were in favour of this option but raised the point that a pool of experts could not be familiar with all different legislative / regulatory / linguistic contexts. In light of the current stage of the CEAS and of the coordination nature of the tasks to be entrusted to the support structure, the pool of asylum experts could help alleviate or share the burden of Member States experiencing particular pressures on their national asylum system.

Entrusting these tasks to the support structure appears therefore to entail (1) limited positive impact on the evolution of the asylum *acquis* and its practical implementation within the Member States and (2) high costs disproportionate to the goal to be attained.

For this reason, given the proportionality of measures to be taken and the scope of the missions to be entrusted to the future support structure, the support structure will have a coordination role (1) by gathering information from Member States over their capacities and facilities and their availability, with a view to helping the Member States experiencing particular pressures on their national asylum system and allowing them to

ask for help and support from another Member State when necessary and (2) by supporting and organising the deployment of expert teams in the affected Member States. The Member States expressed political support for this light option. These tasks will, under the lightest and less costly way, help reduce overburdening of some Member States by helping Member States to cope with mass arrivals.

The detailed costs of these tasks are evaluated in the financial tables contained in the annexes to this report as part of the cost-analysis report of the institutional options. These costs are assessed for each institutional option assessed in this report (six options assessed - see under 5.2 here below in this report) under different items (risks and needs analysis / direct support / capacity building and training / planning, research and development) per group of tasks that require that kind of financial support.

Current cooperation in this field is limited and not well developed. There have been occasional initiatives by Member States, such as, the above-mentioned interpreters pool project done under the auspices of GDISC. The objective of the project was to set up a ‘Rapid Capacity Team’ for interpreters, addressing particular pressures when needs arise. Certain countries act as “donor” countries, sharing their interpreter capacity, and others are “beneficiary” countries<sup>48</sup>. However, the scope of the pool has remained quite limited; to date only a limited number of interpretations have been carried out. There are also concerns about the sustainability of the project and the availability of funding. The difficulties encountered by GDISC in creating and maintaining a sustainable pool of this kind illustrate why initiatives of this kind are better suited to be being coordinated by a permanent EU support structure with a stable funding base.

#### 5.1.6. *Intra-EU relocation*

This task received mixed scores from stakeholders, mainly because the notion of intra-EU relocation was considered as unclear.

In view of the study to be launched by the Commission on developing relocation within the Union, the support structure could at first have an advisory role to feed in the assessment and definition of relocation measures or proposals. It could in the longer term coordinate all exchanges of information related to relocation and possibly coordinate any action linked to implementation of initiatives. This would contribute to improving fair and more harmonised processing of applications for international protection throughout the Union and reduce overburdening of some Member States.

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<sup>48</sup> Twelve countries (UK, Germany, Netherlands, Norway, Lithuania, Latvia, Croatia, Czech Republic, Romania, Turkey, Bulgaria and Slovakia) indicated their interest in joining this project: UK, Germany, Norway and Netherlands volunteered to act as donor countries; Norway, Lithuania, Latvia, Croatia, Czech Republic, Romania, Turkey, Bulgaria and Slovakia were to be the beneficiaries. Norway was to act both as donor and as beneficiary in the project.

The detailed costs of these tasks are evaluated in the financial tables contained in the annexes to this report as part of the cost-analysis report of the institutional options. These costs are assessed for each institutional option assessed in this report (six options assessed - see under 5.2 here below in this report) under different items (risks and needs analysis / direct support / capacity building and training / planning, research and development) per group of tasks that require that kind of financial support.

Entrusting these tasks to the support structure would appear likely to have a positive impact on the evolution of the Member States' action as regard relocation and consequently to the objectives defined in this impact assessment report. In view of the clearly limited role of the support structure over relocation, to be fully defined in the context of future measures to be adopted about relocation, the option appears to be feasible. Moreover, given that any such measures would involve relocating persons between Member States, entrusting a support function to an EU-wide support structure would seem to be consistent with the principle of subsidiarity.

#### 5.1.7. *Training and capacity building*

There is overall high support from stakeholders for these tasks.

The stakeholders stressed that it would be important to take stock of existing approaches at national and international level to training, curriculum development (e.g. European Asylum Curriculum — EAC), etc, and approaches taken by NGOs. Organising general and specific training sessions, e.g. training targeting a specific public (e.g. judges / case-workers ...) or specific issues (e.g. how to deal with EAC / treatment of vulnerable persons or unaccompanied minors / access and use of COI portal...), will improve the capacity, knowledge and know-how of the different actors involved in the asylum process and therefore contribute to an improved, fair and more harmonised processing of applications for international protection throughout the Union.

The detailed costs of these tasks are evaluated in the financial tables contained in the annexes to this report as part of the cost-analysis report of the institutional options. These costs are assessed for each institutional option assessed in this report (six options assessed - see under 5.2 here below in this report) under different items (risks and needs analysis / direct support / capacity building and training / planning, research and development) per group of tasks that require that kind of financial support.

Entrusting these important tasks to the support structure appears therefore to fully enhance practical cooperation on CEAS and have a very positive impact on the evolution of the asylum *acquis* and its practical implementation within the Member States.

There is currently little training provided in the field of asylum .. Moreover, there is no comprehensive EU-wide approach to training. Putting in place such EU-wide training would provide a very important support for the needs of all Member States and for the creation of the CEAS. The EAC project, which is currently still in the course of being

developed, is a good attempt to meet these needs. The project is well on the way, but has yet to be implemented or even tested, and does not currently have adequate funding to provide the sustainability of the future EAC.

*5.1.8. Activities linked to the external aspects of practical cooperation linked to the CEAS: resettlement and RPPs*

Member States and NGOs supported the idea of entrusting the task of resettlement to the support structure. Most stakeholders stressed the need to cooperate with the UNHCR. The support structure could provide added value by taking a coordination and advisory role. It could facilitate and coordinate the identification and exchange of best practices and lessons learnt.

As regards RPPs, these tasks received overall low support from the stakeholders. Many actors preferred to await the results of the recent evaluation on RPPs to be conducted by the Commission in 2009 and the Council's proposals on the next steps, if any.

The Commission is however committed to improving and developing the external aspects of CEAS. As part of it, the external aspects of practical cooperation on CEAS, and in particular action to reinforce and improve work on resettlement and RPPs, will improve the successful resettlement of persons in need of protection outside of the EU and strengthen protection systems in third countries.

The detailed costs of these tasks are evaluated in the financial tables contained in the annexes to this report as part of the cost-analysis report of the institutional options. These costs are assessed for each institutional option assessed in this report (six options assessed - see under 5.2 here below in this report) under different items (risks and needs analysis / direct support / capacity building and training / planning, research and development) per group of tasks that require that kind of financial support.

Entrusting these tasks to the support structure appears to have a positive impact on developing the external aspects of practical cooperation on CEAS.

Stakeholders refer to problems in relation to the efficiency, costs and effectiveness of resettlement programmes and projects due to lack of EU coordination in this area. Attributing such a coordination role to the EU-wide support structure would resolve this problem, as it would clearly best be organised at the Community level, and would therefore be consistent with the principle of subsidiarity.

The number of EU countries engaged in resettlement remains low and the EU share of global resettlement efforts very modest. Furthermore, the lack of EU coordination of resettlement projects or programmes most likely causes higher costs and lower efficiency. Each resettlement programme involves a similar set of activities, such as interviewing refugees and assessing the grounds upon which resettlement will be arranged and making travel arrangements from the host country. The national design

and implementation of resettlement programmes or projects results in a duplication of efforts on the part of national administrations, as well as for the UNHCR and NGOs, in the country of resettlement and of first asylum. Better coordination of resettlement efforts would go some way toward minimising these inefficiencies.

#### *5.1.9. Contribution of different tasks to the objectives*

All tasks assessed here above are assessed as feasible and contribute to the three objectives defined under (3). The task “joint processing of asylum applications at the EU level” is discarded on account of its low legal and political feasibility.

An assessment of the impact of options for the institutional form of the future support structure will identify which institutional body will be in the best position to fulfil most efficiently these tasks.

### **5.2. Impact of options for the institutional form of the support asylum structure**

This impact assessment report contains an ex-ante financial analysis, which is obligatory under the financial regulation. Detailed aspects of this ex-ante analysis are set out Annex 4 to this report with tables assessing the detailed costs under the following headings: Staff costs / Building, equipment and administrative expenditure / Cost of operations.

The following paragraphs study in depth the implications of choosing an institutional form for the support asylum structure. This structure will be entrusted with all the tasks which have been assessed as being feasible (see under para. 5.1 here above). This report takes the view that all tasks need to be carried out by a single support structure and that each institutional policy option will all cover the same range of tasks . This will in particular

(1) allow an easier assessment as regard effectiveness of the support structure to be entrusted with a whole coherent and linked tasks.

(2) ensure coherence over a full mandate covering all aspects of practical cooperation related to CEAS, in ways of working, inside the structure and vis-à-vis the outside world, as this structure will be a single interlocutor for all the tasks defined in its mandate,

(3) allow economies of scale in working, as a single body in charge of all the aspects will be in a better position to assess priorities and put its effort on the most important aspects of the different tasks in order to get quicker and better deliverables.

(4) and avoid duplication of work and tasks between different bodies, and possible difficulties of coordination between different institutional bodies working in parallel over the same subjects.

### 5.2.1. *Status quo*

Given the express request of the European Council to “establish in 2009 a **European support office**”, this option can be discarded.

### 5.2.2. *Strengthening the European Commission by increasing human and financial resources*

This unit would have mainly (1) a role of initiation of new practical cooperation activities and (2) a role of coordination for these practical cooperation activities (already on-going ones to be enhanced and future new ones). The existing practical cooperation structures already developed by the Commission (e.g. EURASIL, EMN...) would continue to exist and function in the same way as present and their activities would be developed. Relationships with external bodies would be reinforced, e.g. with UNHCR, external bodies (e.g. GDISC, ENARO ...) and NGOs (e.g. ECRE, Red Cross...).

The political feasibility of the option appears low given the scores by the Member States during the consultation organised in the context of the feasibility study.

As regards the legal feasibility of the option, there are no obstacles to reinforcing a Commission’s unit. The decision to establish the unit would be an internal decision of the European Commission. The decision as well as the setting-up phase could be swift.

As regards its functional and practical effectiveness, the Commission would be in a position to steer the activities linked to practical cooperation related to CEAS. An increase in staff in the Commission’s unit would however be fairly limited given the current strict limitation of Commission staff. An increase in financial resources allocated to this unit would for the same reason be limited, given the blocked financial perspectives for the Community budget until 2013.

It would therefore most likely only be possible to create a new unit comprising about 12 members, mainly using existing financial resources. In view of the diversity and volume of tasks to be entrusted to the support structure, the unit would quickly be overburdened and would not be in a position to deliver efficiently. On a positive note, the unit would have a strong Commission image, which may contribute to the active involvement of Member State representatives in the activities at expert level.

The time needed to set up a new Commission’s unit would be very easy and quick and would take the form of a revised organigramme to be adopted by the Commission.

As regards cost-effectiveness, the financial costs to set up a practical cooperation unit within the Commission would range between 3 and 5.7 million euro with an estimated set-up cost of over 0.3 million euro. In the first year, the unit is thus estimated to cost around 3.3 euro, as it will include start-up costs, an initial round of recruitment and a relatively limited set of tasks and activities, which can gradually be increased. *See detailed table of costs “EC Commission Unit” in Annex 4 (ex-ante financial analysis).*

It is estimated that the national inputs to practical cooperation, estimated at around 6 million euro, would initially continue and gradually be halved, due to greater efficiencies. The details are given in Annex 5 (Table 5.6 “estimated FTE’s dedicated to transnational practical cooperation”).

In terms of staffing numbers, the unit would require between 11 – 15 FTEs. This number of staff to be allocated to the Commission's unit is evaluated in view of the common size of an administrative unit within the Commission’s administrative organisation. It is considered it would not be possible to create a stronger unit or a whole service dedicated to asylum tasks within the Commission in view of the current financial perspectives till 2013 and current restrictions over Commission's staff. Additional external resources could be procured. The unit would also have access to a funding stream from the European Refugee Fund.

This option, though entailing positive aspects in terms of delivery and effectiveness, runs a high risk of failure on account of the limited staffing numbers and of the consequent risk of the structure getting quickly overburdened in view of the number and variety of tasks to be dealt with. It cannot therefore be deemed as a good option for establishing the support structure.

### 5.2.3. *Creating a new network*

Regarding the political feasibility of this option, it received mixed support by the Member States. Overall, a higher level of political commitment would be given to a more stable structure to further practical cooperation, rather than to a structure highly dependent on inputs and outputs from other structures.

Regarding the legal feasibility of this option, the network would be established by a Council Decision, probably on the legal basis of Article 66 TEC (administrative cooperation). The feasibility might be reduced as a result of the different legal statuses (or rather the absence of statuses) of some of the existing cooperation structures and the extent to which these could sign up to an umbrella network and common work programme.

Regarding its functional and practical effectiveness, an umbrella network, made up of different existing cooperation structures, could be significantly hampered by low participation and complex management and organisational structures. On the other hand, the Open Method of Coordination, to be introduced as working method of the network, would ensure a bottom-up approach building on existing successful work and focusing on real needs and gaps. However, it must be recalled that the Open Method of Coordination is unknown in the JLS sector. The use of the working method has been limited to specific sectors, such as the social sector. Moreover, the OMC excludes de facto the participation of the European Parliament in the process. This is likely to significantly reduce the support of the European Parliament for this option.

However, the balance may tip in favour of participation as existing structures would receive both financial and technical support for implementing activities. Such support would be more continuous than current grants.

Regarding the management of the structure, an umbrella network of very different structures involving different types of bodies could prove to be very difficult to manage and coordinate practically and effectively. While a common work programme would surely increase commitment and lead to some synergies, it could prove very difficult for different existing cooperation structures to agree on a selection of activities and working methods. Disagreement may result in (severe) obstructions to the functioning of the network. It would also require extensive work to identify the different roles and responsibilities of members of the network and to make sure that they are fulfilled.

Regarding the time needed to set up the network, it is likely to entail delays. A proposal for an establishment decision should be made by the Commission and then adopted by the legislator. For the network to be fully operational, regarding participation, existing cooperation structures may be resistant to the concept of being grouped into a larger structure and find it difficult to convince their network partners to stay involved, as most are based on voluntary participation. In addition, most existing structures will already have defined their work programmes for the next 2-3 years. They may not wish to alter this, or stop some activities altogether, because an umbrella network is created. Some may also be unable to make changes as funding would already be in place for certain activities. This would entail large delays of up to a few years before the network is operational.

Regarding the Commission's support for the network, the Commission would be most likely responsible for running the network. This would place a substantial burden on the Commission and require it to increase inputs both in terms of human and financial resources in parallel to the creation of the network. The network would therefore require substantial support from the Commission, to be estimated between 9-15 FTEs. Additional external resources could be procured.

As regards cost-effectiveness, the financial costs for establishing the network would range between 3.9 – 8 million euro with an estimated set-up cost of over 0.3 million euro. In the first year, the network is thus estimated to cost around 3.3 million euro, including start-up costs, an initial round of recruitment and a relatively limited set of tasks and activities, which can gradually be increased. *See detailed table of costs "Network" in Annex 4 (ex-ante financial analysis).*

It is estimated that the national inputs to practical cooperation estimated at around 6 million euro, would initially continue and gradually be halved, due to some efficiencies made by the network. The details are given in Annex 5 (Table 5.6 "estimated FTE's dedicated to transnational practical cooperation").

In terms of staff numbers, the network would include dedicated staff working in the contracted coordination unit, which could range from 5-15 FTEs. Additional external resources could be procured or obtained through grants.



This option has a low degree of feasibility and practical effectiveness, on account of the difficulties the network would have for effective delivery (organisational structure and working method). Moreover, it entails substantial support from the Commission. It can therefore not be considered a good option for establishing the support structure.

#### 5.2.4. *Creation of the European Asylum Support Office (EASO) as a regulatory agency*

The office would take over the activities on practical cooperation currently dealt with by the Commission. It would absorb the existing Commission's expert group EURASIL, which would become a full working group of the office. As far as its mandate is concerned, it would have a role of coordination and initiation of practical cooperation activities in the field of asylum. It would bring technical support, e.g. being responsible for managing and developing the COI portal or supplying necessary translations. It would be a centre of European asylum expertise, networking and pooling good practice and evaluating the application and implementation of CEAS rules.

Regarding the political feasibility of the option, all Community institutions are presently in favour of this option. The Council, European Council and European Parliament reiterated many times since the Hague programme and in subsequent positions that they favour the option of a support office. The Commission indicated in the Communication "Regulatory agencies — The way forward" that an exception to the moratorium on creation of new regulatory agencies would be made in order to keep open the possibility of creating the support office for asylum, in the form of a regulatory agency. It appears therefore that the creation of the Office is called for by all institutions. Upon a proposal of the Commission, the political commitment of the Member States and European Parliament (budgetary authority) can therefore be considered as high.

Regarding the legal feasibility of the option, the Support Office would be established by a Regulation, which would make it an independent body in the institutional form of a regulatory agency.

The functional and practical effectiveness of the office would be high, following these lines:

- The structure of the agency would reflect a participatory approach, as it would be managed by its Management Board, with the Member States and the Commission as members.
- Other stakeholders would be involved in the office through participation in working groups and consultative fora.
- The work programme and budget of the support office would be decided by the Management Board.

- The office would be submitted to horizontal rules applicable to regulatory agencies on evaluation and controls<sup>49</sup>.
- As far as evaluation is concerned, once the agency has been set up, both it and the Commission will carry out regular evaluations of its activities and operations. On this basis, the Commission may propose revising or, where appropriate, repealing the basic act<sup>50</sup>.
- As far as controls are concerned, budgetary control, internal audits, annual reports by the Court of Auditors, the annual discharge for the execution of the Community budget and the investigations conducted by OLAF will make it possible to ensure, in particular, that the resources allocated to the agencies are put to proper use. Administrative control will ensure that a number of procedural safeguards are put in place so that account is taken of the interests of interested parties and the quality of output<sup>51</sup>.

With regard to the organisational structure of the Support Office, it would be preferable to create a reduced management board to ensure efficient management, or, if this is impractical, to set up an executive board in charge of the day-to-day management of the office, since a large management board could slow down decision-making and reduce the effectiveness of the Office.

Regarding the time needed to set up the support office, it is estimated that it could be operational within one year of adopting the establishing act. Moreover, in view of the fact that the Commission would fully support the new agency during the setting-up phase (see under “support of the Commission to the future structure”), it seems possible to reach this objective. Some precedents may be quoted, such as the European Chemical Agency (ECHA - Helsinki), that, with full support from the Commission became quickly operational.

Regarding cost-effectiveness, the financial costs to set up the support office would range between 10.3 – 17.6 million euro with an estimated set-up cost of over 0.6 million euro. This is an estimated cost in view of the number of varied tasks to be entrusted to the Support Office and in view of the fact that the Support Office would from scratch take over important tasks linked to practical cooperation initiatives already underway (e.g. transfer of EURASIL to the support office, COI portal ). With this budget, the support office is expected to greatly improve and expand practical cooperation linked to CEAS, thus reducing current duplication, addressing gaps and expanding the overall scope of cooperation in this area.

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49 See draft interinstitutional agreement on the operating framework for the European regulatory agencies, com(2005)59.

50 See draft interinstitutional agreement on the operating framework for the European regulatory agencies, com(2005)59.

51 See draft interinstitutional agreement on the operating framework for the European regulatory agencies, com(2005)59.

In the first year, the support office is estimated to cost around 6 million euro, (estimated start-up costs), an initial round of recruitment and a relatively limited set of tasks and activities, focused on the main priority tasks, which can gradually be increased. It is also possible that in the first year of its implementation, the office may cost less than the minimum running costs, as some time would be required for recruitment, development of operational procedures and selection of activities. However, as there are already a wide range of projects which could rapidly and either be taken over by the office and /or developed and implemented in the short term, the office would quickly require a higher level of resources. *See detailed table of costs “EASO” in Annex 4 (ex-ante financial analysis).*

It is estimated that the national inputs to practical cooperation estimated at around 6 million euro would initially continue and gradually be reduced to a quarter, due to the fact that the support office will take over many tasks as regards practical cooperation. The final level of national support will be very low, as the support office would effectively take over or finance most activities in the area of practical cooperation linked to CEAS and introduce greater efficiencies. The details of these national inputs are given in Annex 5 (Table 5.6 “estimated FTE’s dedicated to transnational practical cooperation”).

Regarding the Commission’s support for setting up a support office, in terms of staffing, it would require the support of the Commission of between 5 – 8 FTEs. This number would cover all Commission staff within the Commission dealing with the agency, including horizontal services dealing with horizontal tasks linked to agencies (such as Directorate general responsible for Budget / Legal Service / Internal Audit Service / Administration / Secretariat General) as well as sectoral services (Directorate general justice/liberty and security, JLS staff dedicated to asylum policy). It should be noted that the support office, when created, will be a new regulatory agency and will face the difficulties inherent to setting-up any new institutional body from scratch. The Commission must therefore be closely involved in setting up the support office, the rapid creation of which is expressly asked for by the European Council with a view to quick delivery and operational results. .

The support office would therefore require between 60-94 FTEs, in view of the number of different and varied tasks to be entrusted to it (see paragraphs 4.1 and 5.1). This number appears to be reasonable in view of the current level of staff involved in different tasks in different existing bodies dealing with practical cooperation related to CEAS. This number also involves economies of scale in view of the present duplications between tasks in those different bodies / structures and therefore staff dealing with parallel tasks and missions. Additional external resources could be procured or obtained through grants.

The support office appears well placed as regards political and legal feasibility. Effective delivery of results can be expected. As regards cost-effectiveness, the costs of creating a new agency may appear medium to high but given the number of tasks to be covered by the support office and improvement in the practical cooperation linked to asylum, the

costs appear reasonable. Moreover, in view of the important cuts in national resources for practical cooperation to be made as a result of the activity of the support office, this option appears as a good one for the future support structure.

#### 5.2.5. *Incorporation of the support asylum structure into an existing regulatory agency*

For reasons of economies of scale, the activities to be entrusted to the support asylum structure could be merged into an existing regulatory agency. There are three sub-options (see description under 4.2.5):

- merge into FRA;
- merge into FRONTEX ;
- merge into the future JLS IT Agency

##### 5.2.5.1. FRA (Fundamental Rights Agency)

Regarding the political feasibility of this option, the Council and European Council called for the creation of a specific dedicated support office, and not the incorporation of the future support asylum structure into an existing structure. This would also be in contradiction with the objective pursued by the establishment of the Fundamental Rights Agency, which deals with all fundamental rights issues and in contrast to the EUMC which was dedicated only to racism and xenophobia. It must also be emphasized that no stakeholder, Member States or non-governmental organisations consulted during the consultation process organised with a view to preparing this impact assessment report proposed such an option. For these reasons, the political feasibility of this option appears low, even if asylum is a fundamental right.

Regarding the legal feasibility of the option, the legal basis for FRA is Article 308 TEC. However, the Treaty already contains a specific legal basis for asylum policy (Article 63 TEC) and practical cooperation (Article 66 TEC), which could be considered as necessary for entrusting to the Agency specific tasks as regards asylum.

The functional and practical effectiveness of the merger would be medium. There are some pros and cons to this option, as follows:

- Some of the existing horizontal departments, such as administration, finance and procurement could be shared, producing economies of scale, although the creation of a dedicated asylum department within the agency may still entail reinforcing these horizontal services within the agency. In any case, the creation of an additional department would imply a new significant change in terms of staff and organisational structure of the agency, which has only very recently been modified. FRA commenced operations only in March 2007.
- FRA is a relatively small agency with a staff of about 50 people. Should a dedicated asylum structure be merged into FRA, the nature and content of the core tasks of

FRA would be substantially altered and possibly create an imbalance within the newly established agency towards asylum tasks. This could potentially be politically counterproductive as the FRA was been (recently) created with the specific aim of promoting the full range of fundamental rights, with certain priority areas referred to in the basic Regulation.

- It would therefore be difficult to envisage merging a new dedicated asylum structure of some 60-94 people (see above under para. 5.2.4) into the FRA without full-scale changes to its operation and mission dedicated to data collection and related awareness-raising about fundamental rights. For this reason, the asylum department may be staffed by no more than 20-30 people, without risking upsetting the balance within the agency and involve resistance within the Agency as regards the creation of this new department and new part of the mandate. Such a limited number of staff dedicated to asylum tasks may however be a barrier to the full effectiveness and positive impact of the support asylum structure merged into the FRA.
- The FRA is fully dedicated to data collection and related awareness-raising tasks and, as such, was not meant to develop experience in dealing with practical cooperation on asylum and related operational tasks. However, since its mandate focuses on Fundamental Rights, and the right to asylum is a fundamental right, the asylum tasks would be in line with the mandate. Politically, the stakeholders, in particular external stakeholders (IGOs and NGOs), may consider it to be a positive trend.
- FRA does not have operational tasks and, if it were to host an asylum department, it would need to acquire know-how and expertise on practical cooperation and operational tasks in the field of asylum policy. This could entail delays in setting up the dedicated department and disrupt the current work of the FRA.
- Should the FRA be placed in charge of the tasks to be entrusted to a specific support asylum structure, the Management and Executive Boards may need to be reconfigured, as it currently does not include representatives of asylum national services. This would open another transitional phase for the Agency, which has just finished its institutional transformation process from EUMC to the Fundamental Rights Agency.

Regarding the time needed to implement this option, an estimation is at least 3/4 years, given the need to amend the establishing act of the FRA and the time needed after adopting this amendment to implement the new mandate (hire new staff / provide for the new organisation within the agency / adapt to new work).

Regarding cost-effectiveness, the financial costs for merging the support structure into the FRA would range from 6.6 – 12.1 million euro with an estimated set-up cost of over 0.6 million euro. *See detailed table of costs “FRA” in Annex 4 (ex-ante financial analysis).*

It is estimated that national inputs to practical cooperation, estimated at around 6 million euro, would initially continue and gradually be reduced to a quarter, due to greater efficiencies in the work of the FRA. The final contributions will be low, as the FRA would effectively take over or finance most activities in the area of practical cooperation and introduce greater efficiencies. The details of these national inputs are given in Annex 5 (Table 5.6 “estimated FTE’s dedicated to transnational practical cooperation”).

Regarding the Commission’s support for this option, in terms of staffing, it requires substantial involvement of the Commission in supporting the FRA’s development, in order to avoid any delay in achieving the asylum tasks. Merging asylum tasks into the FRA would therefore require the Commission to dedicate between 5 – 8 FTEs. Commission staff includes specialised staff dedicated to asylum tasks and horizontal tasks linked to agencies within the Commission, particularly regarding budgetary, staffing and audit issues. This evaluation of the staff needed for supporting the merge of the support structure is comparable to the one needed for creation of the support structure under the form of a regulatory agency.

The asylum department of the FRA would require between 29-46 FTEs. This would create within FRA a substantial new department working exclusively on new tasks, with the risk of unbalancing the agency.

This option may have a certain level of feasibility in political terms. However, the creation of an asylum department in the FRA entails the risk of institutional and legal complications and would require a new adaptation phase for FRA. The option is therefore a medium one for establishing the support structure, as it can result in making it difficult for the agency to deliver what it has been expected to deliver at the time it was created and on the basis of its current mandate and tasks.

#### 5.2.5.2. FRONTEX (European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union)

Regarding the political feasibility of the option, the Council and European Council called for the creation of a dedicated support office. For this reason, the political feasibility of this option is medium low. Moreover, the main focus of FRONTEX is to control legal immigration and to prevent illegal immigration and FRONTEX is not familiar with fundamental rights issues in general, and in particular with the right to asylum and the protection of personal data. For that reason, the risk exists that entrusting FRONTEX with the tasks to be given to the support structure would not ensure that the objective is properly reached and it would therefore be politically problematic to merge an asylum department into FRONTEX. Finally, it must also be emphasized that no stakeholder, Member States or non-governmental organisations consulted during the consultation process organised with a view to preparing this impact assessment report proposed such an option. For that reason, the political feasibility of the option appears low.

Regarding the legal feasibility of the option, the legal basis of FRONTEX already covers administrative cooperation (Article 66 TEC) but not asylum policy (Article 63 TEC). In

view of the fact that the Treaty contains a specific legal basis for asylum policy, if the current legal basis were left unchanged, it could be legally disputed before the Court of Justice. Should the current legal basis of FRONTEX remain unchanged, the agency would not, legally speaking, be underpinned by the asylum *acquis*, should Article 63 TEC be considered necessary to entrust it with all activities related to practical cooperation on CEAS.

The functional and practical effectiveness of the merger would be medium. There are some pros and cons as follows:

- Some of the existing horizontal departments, such as administration, finance and procurement could be shared, producing economies of scale. However, the creation of a dedicated asylum department within the agency would entail reinforcing these horizontal services within the agency. This would also imply a further change to the staff and organisational structure of the agency, which is a relatively new and just past the setting up phase.
- FRONTEX is a relatively small agency with a staff of about 70 people. Should a dedicated asylum structure be merged into FRONTEX, the content of the work of FRONTEX would radically change and possibly create an imbalance within the agency towards asylum tasks. This may be politically counterproductive as FRONTEX was created with the specific purpose of managing measures relating to the management of external borders.
- It would be difficult to envisage merging a new dedicated asylum structure of some 60-94 people (see above under para. 5.2.4) into FRONTEX without a full-scale change to its functioning and mission. For this reason, the asylum department should be limited to a staff of 20-30 people, to avoid FRONTEX becoming an asylum agency and losing its focus on the management of external borders. Such limited staffing levels dedicated to asylum tasks might be a barrier to full effectiveness and positive impact of the support asylum structure merged with FRONTEX.
- FRONTEX is fully dedicated to operational tasks linked to the management of external borders. It does not have experience in dealing with practical cooperation in the field of asylum. Even if FRONTEX were in a position to identify and assess clearly and effectively the needs for protecting asylum seekers at the borders, in the context of mixed flows, it does not follow that it would be in a position to improve exchange of good practices (one of the objectives defined under 3) or achieve fair and more harmonised processing of applications for international protection throughout the Union.
- From a political point of view, the stakeholders, external stakeholders (IGOs and NGOs), but also some Member States and the European Parliament may consider that entrusting tasks in the asylum field to FRONTEX, an agency that mainly deals with controlling legal immigration and preventing illegal immigration, is inappropriate and

potentially counterproductive. The political feasibility of this option appears therefore low.

- If FRONTEX were to host an asylum department, it should acquire know-how and expertise in this field, as they do not have any for the time being. This could entail delays in setting up the dedicated department within FRONTEX and disrupt the current work of FRONTEX.
- Should FRONTEX be placed in charge of the tasks to be entrusted to the support asylum structure, the Management Board would have to be fully reconfigured, as it currently include representatives of the national immigration services and does not include representatives of asylum national services. Difficulties within the Management Board have to be foreseen as it may be problematic to take into account the different, if not diverging interests (illegal immigration / asylum) which would be represented within the Agency.
- The Director of the agency is nominated by the Management Board. Should the structure, members and functioning of the Management Board change in line with the new asylum part of the agency, the nomination of the present director could be called into question. The nomination of a new Director suitable for overseeing both interests to be represented in the agency could be envisaged but may be problematic as it should take into account the different, if not diverging interests (illegal immigration / asylum) represented within the Agency. This may imply a difficult transitional period for the agency.
- Regarding the time needed to implement this option, an estimation is 3/4 years, given the need to amend the establishing act of FRONTEX and the time needed after adoption of this amendment to implement the new mandate (hire new staff, provide for new organisation within the agency, adapt to new tasks).

Regarding cost-effectiveness, the financial costs for merging the support structure into FRONTEX would range from 6.6 – 11.9 million euro with an estimated set-up cost of over 0.6 million euro. *See detailed table of costs “FRONTEX” in Annex 4 (ex-ante financial analysis).*

It is estimated that national inputs to practical cooperation, estimated at around 6 million euro, would initially continue and gradually be reduced to a quarter, due to efficiencies in the work of FRONTEX. The final level of contributions will be low as FRONTEX would effectively take over or finance most activities in the area of practical cooperation and introduce greater efficiencies. The details of these national inputs are given in Annex 5 (Table 5.6 “estimated FTE’s dedicated to transnational practical cooperation”).

Regarding the Commission’s support for this option, in terms of staffing numbers, FRONTEX would require between 5 – 8 FTEs of Commission staff. The Commission would have to be closely involved in supporting FRONTEX’s development in order to avoid any delay in fulfilling the asylum tasks. Commission staff includes specialised staff dedicated to asylum tasks and horizontal tasks for agencies within the Commission,



in particular budgetary, staffing and audit issues. This evaluation of the staff needed for supporting the merger of the support structure is comparable to the one needed for creation of the support structure under the form of a regulatory agency.

The asylum department of FRONTEX would require between 29-46 FTEs. This would create a new department working exclusively on new tasks with the risk of unbalancing the agency.

The option of merging the support asylum structure into FRONTEX scores low on political and legal feasibility, on account of the mandate of FRONTEX which focuses on controlling legal immigration and preventing illegal immigration. Moreover, creating an asylum department in FRONTEX entails the risk of ineffectiveness given the lack of experience of FRONTEX in operational asylum tasks. The option therefore scores low for establishing the support structure.

#### 5.2.5.3. JLS IT Agency (Agency for the operational management of SIS II, VIS, EURODAC and other large-scale IT systems).

Regarding the political feasibility of this option, the Council and European Council called for the creation of a specific support office. It must also be emphasized that no stakeholder, Member States or non-governmental organisations consulted during the consultation process organised with a view to preparing this impact assessment report proposed such an option. For that reason, the political feasibility of the option appears very low.

Regarding the legal feasibility of the option, the legal basis of the IT Agency, as currently provided for in the Commission's proposal, covers part of the asylum *acquis* (Article 63(1)(a) and 63(3)(b)) and administrative cooperation under Article 66 TEC). However, the asylum *acquis* is only partly covered. In view of the tasks to be entrusted to the support asylum structure, the current legal basis enshrined in the asylum field appears insufficient to cover these tasks. Should the present legal basis of the IT Agency remain unchanged, the agency could, legally speaking, be disputed before the Court of Justice, should Article 63 TEC be considered necessary to entrust it with all activities related to practical cooperation on CEAS.

The IT-Agency, in view of its mandate, will not be familiar with fundamental rights issues in general and in particular with the right to asylum and the protection of personal data. For that reason, the risk exists that entrusting this agency with the tasks to be given to the support structure would not ensure that the objective is properly reached and it would therefore be politically problematic to merge an asylum department into it. The functional and practical effectiveness of the merger would be medium. There are some pros and cons, as follows:

- Some of the existing horizontal departments, such as administration, finance and procurement could be shared, creating economies of scale. However, the creation of a substantial, dedicated asylum department within the agency would entail reinforcing the agency's horizontal services.

- The IT Agency has an estimated staff of 120 people. Should a dedicated asylum structure be merged into it, the content of the work of the agency could change and possibly create an imbalance within the agency towards asylum tasks. This would be politically counterproductive as the IT Agency will be created with the specific purpose of managing large-scale IT systems such as SIS II and VIS, not only EURODAC.
- It would be difficult to envisage a new dedicated asylum structure of some 60-94 people (see above under para. 5.2.4) to be merged into the IT Agency without a wholesale change to its functioning and mission. For this reason, the asylum department should be limited to a staff of 20-30 people, to avoid the IT Agency becoming an asylum agency and losing its focus on the operational management of large IT systems.
- The IT Agency will be fully dedicated to the operational management of large scale IT systems. It will have no experience in dealing with practical cooperation in the field of asylum. The IT Agency will also be in charge of the operational management of the EURODAC database. However, this technical support to the EURODAC system will not result in any positive impact on practical cooperation, approximation and improving the exchange of good practices (one of the objectives defined under 3) as it will be limited to managing the IT system.
- The IT agency will have to be created from scratch. The large-scale IT systems might have to be moved to a new location (Strasbourg — France). This may entail delays during the setting-up phase. It could be difficult for the new agency to begin activities in two very different fields of work at the same time, which may prevent the agency from becoming fully operational on both aspects of its mandate.
- Politically, stakeholders could deem entrusting tasks in the asylum field to an agency dealing mostly with IT-systems in the field of border controls to be highly inappropriate.
- Should the IT Agency be in charge of the tasks to be entrusted to the support asylum structure, the Management Board would have to be reconfigured as it currently does not include representatives of asylum national services.
- The Director of the agency is nominated by the Management Board. Should the structure, members and functioning of the Management Board change in line with the new asylum department, the nomination of the director will have to take into account different, if not diverging interests (IT / Asylum) represented within the Agency.

Regarding cost-effectiveness, the financial costs for merging the support structure into the future IT Agency would range from 6.6 – 12.3 million euro with an estimated set-up cost of over 0.6 million euro. *See detailed table of costs “IT Agency” in Annex 4 (ex-ante financial analysis).*

It is estimated that national inputs to practical cooperation, estimated at around 6 million euro, would initially continue and gradually be halved, due to potential efficiencies. The details of national inputs are given in Annex 5 (Table 5.6 “estimated FTE’s dedicated to transnational practical cooperation”).

Regarding the time needed to implement this option, setting up a new Agency dedicated to the operational management of large scale IT systems is a long process. It is expected that the IT Agency should be legally established in 2011 and should become fully operational in 2012. Further delays are, however, possible, given the length of decision-making process before the legislator

Regarding the Commission’s support for the option, in terms of staffing numbers, the future IT Agency would require at least 7 – 12 FTEs (see impact assessment of the IT Agency assessing the need for Commission support staff, 5-10 just to support the creation of the IT Agency). The Commission would have to be closely involved in supporting the IT Agency development to take on asylum work, in order to avoid any delay in fulfilling asylum tasks. The Commission staff includes specialised staff dedicated to asylum tasks and the horizontal tasks for Commission agencies, particularly budgetary, staffing and audit issues. This evaluation of the staff needed for supporting the merger of the support structure is comparable to the one needed for creation of the support structure under the form of a regulatory agency.

The asylum department of the IT Agency would require between 29-46 FTEs, since it would be difficult to envisage merging a new dedicated asylum structure of some 60-94 people (see above under para. 5.2.4) into the It-Agency without full-scale changes to its operation and mission. This would create a substantial new department within the IT Agency dedicated solely to new tasks, with the risk of unbalancing the agency. Such a limited number of staff dedicated to asylum tasks may however finally be a barrier to the full effectiveness and positive impact of the support asylum structure merged into the It-Agency.

This option of merging the support structure into the future IT Agency scores low on political and legal feasibility terms, on account of the mandate of the IT Agency dedicated to operational management of large scale IT systems. Moreover, creating an asylum department in the future IT Agency entails the risk of ineffectiveness given the fact that the staff of the IT Agency will be composed to a large extent of IT specialists with no experience in asylum policies. Above all, the setting up of a new Agency dedicated to the operational management of large scale IT systems is a long process. It is expected that the IT Agency is legally established in 2011 and should become fully operational in 2012. This timeframe is not in line with the express request made by the European Council to establish in 2009 a European support structure in the field of asylum. The option therefore scores low for establishing the support structure.

#### 5.2.6. *Creation of a Common EU Support Authority (decision-making body)*

This option can be discarded as the Asylum Plan impact assessment report assessed this option as politically and legally unfeasible.

### **5.3. Respect of fundamental rights**

The provisions of the 1951 Geneva Convention and the European Convention on Human Rights, the evolving case law of the European Court of Human Rights (ECtHR) and the EU Charter of Fundamental Rights are a constant reference point for Community action on asylum policy. Moreover, to the extent that the activities of the support asylum support structure may involve the processing of the personal data of asylum seekers, it will be necessary that these activities comply with Directive 95/46, which lays down the legal framework to ensure the fundamental right to the protection of personal data for any individual whose personal data is processed in the EU. The same goes for Regulation (EC) 45/2001, which concerns the processing of personal data carried out by the Community institutions and bodies.

Asylum seekers and persons benefiting from international protection are not EU citizens, which does not however preclude them from being covered by the EU Charter on Fundamental Rights, which contains the right to asylum and the protection of personal data.

The support asylum structure will be in charge of ensuring better practical cooperation on the CEAS instruments. The asylum regime may therefore be applied in a more harmonised way throughout the Union, and reduce the current disparities in the recognition rates for certain nationalities or groups of persons requesting international protection. The current disparities between Member States create differences of treatment between asylum seekers and may potentially lead in certain cases to violations of fundamental rights such as the right to asylum (Article 18 of Charter), equality before the law (Article 20 of the Charter) and non-discrimination (Article 21 of the Charter).

The support asylum structure, to be created by the legislator with the purpose of improving practical cooperation related to the CEAS, will be able to contribute to allowing any persecuted foreigner to obtain aid and protection on the territory of the European Union in application of the Geneva Convention. Improving quality is in the interest of the Member States and asylum seekers to implement fundamental rights within the Union. It is expected to have a positive impact as a result of exchanging best practices, collecting asylum data to be used by the various stakeholders and collecting and assessing COI, as these will all contribute to a more harmonised approach. All this will also be achieved by ensuring close contact and full cooperation between the future support asylum office and the Fundamental Rights Agency.

## **6. PREFERRED POLICY OPTION**

This impact assessment report carried out an individual analysis for each institutional option for the future support asylum structure (see above, paragraphs 4 and 5) assessing the available options. The major findings for the eight options are compared in the table below. It must be noted that the criteria “Achievement of objectives”, “Political feasibility” and “Implications for EU budget” were considered as key for the final assessment of the options.

<b>ASSESSMENT</b>  <b>OPTIONS</b>	<b>Achievement of objectives (functional and practical effectiveness)</b>	<b>Time needed for implementation</b>	<b>Support needed from the Commission to the future (external) structure</b>	<b>Legal feasibility</b>	<b>Political feasibility</b>	<b>Implication for EU budget</b> (see detailed figures in financial annexes to this impact assessment report – Ex-ante financial analysis)			<b>Overall Assessment</b>
	High (+++) to Low (---)	Short (+++) To Long (---)	High (-- ) to Low (+++)	High (+++) to Low(---)	High (+++) to Low (---)	Estimated start-up 2010	Minimum on-going costs 2011	Maximum ongoing costs 2011 onwards	Positive (+ to +++) Negative (- to ---)
<b>Option 1</b> Status Quo	0	0	0	0	0	0	0	0	0
<b>Option 2</b> COM's Unit	+	++	<i>Non-applicable</i>	+++	--	320.000	2.959.017	5.732.809	+
<b>Option 3</b> Network	--	-	--	++	+	345.000	3.970.395	8.067.187	-
<b>Option 4</b> EASO	+++	+	--	+++	+++	6.145.016	10.318.738	17.612.984	++(+)
<b>Option 5</b> FRA	-	-	--	+	+	600.000	6.654.449	12.104.600	-
<b>Option 6</b> FRONTEX	-	-	--	+	-	600.000	6.654.449	11.940.342	--
<b>Option 7</b> IT Agency	---	---	--	-	--	600.000	6.818.706	12.331.105	---
<b>Option 8</b> Authority	+++	+	--	---	---	<i>Non-available</i>	<i>Non-available</i>	<i>Non-available</i>	---

On the basis of the above, from an institutional point of view, the creation of a **regulatory agency** as the institutional feature for the future European Asylum Support Office appears to be the **preferred policy option**.

The European Asylum Support Office appears the best option to enhancing practical cooperation on CEAS as regards the full set of tasks to be entrusted to the support structure. Though it is the most expansive solution in financial terms, the creation of the support office under the form of a regulatory agency appears to be the preferred option, as it will be the best efficient as regards the achievement of objectives, and as it appears to have higher legal and political feasibility than the other institutional options. In particular, the office will have full support from the European Parliament and Member States for a quick adoption of the founding regulation. It will also have full support from the Commission's services for helping in a quick set-up of the office after adoption of the founding regulation by the legislator. It will be an European independent centre for expertise in asylum at European level and will help Member States become familiar with the systems and practices of others, to develop closer working relations between asylum services at operational level, build trust and confidence in each others' systems and achieve greater consistency in practice.

#### **Costs of preferred option**

A detailed analysis of the costs of the preferred policy option is provided in Annex 4.

## **7. MONITORING AND EVALUATION**

The establishing act of the European Asylum Support Office will provide for all control mechanisms of a regulatory agency.

- The establishing act of the Office will contain a clause to evaluate the Office. The agency will be submitted to an evaluation every 5 years. Following this evaluation, a review of the establishing act may be proposed by the Commission.
- The Office will produce an annual report, detailing the work carried out during the reference period.
- The Office will produce an annual asylum report, which will cover the following aspects, used as indicators for the activities of the Office (to be laid out in detail by the legislator in the establishing act).

**ANNEX 1:  
OVERVIEW OF STAKEHOLDERS CONSULTED DURING THE  
FEASIBILITY STUDY**

<b>Table 1.1 Overview of stakeholders consulted in the course of the assignment</b>			
<b>Name of organisation / Institute</b>	<b>Contact person at org/instit.</b>	<b>Position / role</b>	<b>Interview conducted</b>
<b>European Commission, DG JLS</b>	Jean Louis de Brouwer	Director Directorate B	
	Angela Martini	Head of asylum team B2	Yes
	Lauri Holmen	Policy officer asylum B2	Yes
	Gert Jan van Holk	Policy officer asylum B2	Yes
	Stephen Davies	Policy officer asylum B2	Yes
	Muriel Guin	Head of unit B4	Yes
	Doede Ackers	Policy officer B4	
	Patrick Lefevre	Ass. Programme Manager B4	
	Hendrik Silberstein	Ass. Programme Manager B4	
<b>European Commission, Secretariat General</b>	Françoise Comte	Legal officer, Agencies, SG-E1	Yes
<b>European Parliament</b>	Hubert Pirker	MEP for EPP	Yes
	Ms. Jean Lambert	MEP for Greens	Yes
	Claude Moraes	MEP	Difficulties to arrange interview
	Martine Roure	MEP for PSE	Difficulties to arrange interview

<b>European Parliament</b>	Baroness Sarah Ludford	MEP	Difficulties to arrange interview
	Mr. Giusto Catania	MEP for GUE	Difficulties to arrange interview
	Jeanine Hennis-Plasschaert	MEP for ALDE -	Yes
<b>UNHCR</b>	Madeline Garlick	Senior European Affairs Officer	Yes
	Blanche Tax	European Affairs Officer	Yes
<b>ECRE</b>	Chris Nash	Legal officer	Yes
<b>CCME (Churches' Commission for Migrants in Europe)</b>	Dorish Peschke	General secretary	Yes
<b>Jesuit Refugee Service Europe</b>	Jan Stuyt	Regional Director	Yes
<b>Caritas</b>	Peter Verhaeghe	Migration Officer	Yes
<b>International Federation of Red Cross and Red Crescent Societies</b>	Andrea Jacober	Coordinator Austrian Red Cross	Yes
<b>IGC (Inter-Governmental Consultations on Asylum, Refugee and Migration Policies)</b>	Mike Bisi	Deputy Coordinator	Yes
<b>GDISC (General Directors of 27 European Immigration Services)</b>	Peter Veld	Chair	Yes



<b>EMN</b>	Stephen Davies	Policy officer asylum B2	Yes
<b>Eurasil</b>	Didier Mouton	Representative of OFPRA, France to Eurasil	Yes
	John Ryan	Judge, representative of Ireland to Eurasil	
	Wolfgang Bartsch	Judge, representative of Germany to Eurasil	Yes
	Mark Ockelton	Judge, representative of the UK to Eurasil	Yes
	Petr Hlavacek	Representative of Department for Asylum and Migration Policy, Czech Republic	Yes
	Ziga Tomc	Representative of Asylum section, Ministry of Interior, Slovenia	Yes
	Pawel Domanski	Representative of Office for Repatriation and Aliens, Poland to Eurasil	Yes
<b>The Netherlands</b>			
Immigratie en Naturalisatiedienst (IND)	Peter Veld	General Director	Yes
Ministry of Justice	H.P. Schreinemachers	Deputy Director, Policy division	Yes
Ministry of Justice	Alexander Sorel	Senior Advisor, Directorate for European and International Affairs	Yes
Vluchtelingenwerk Nederland	Trees Wijn-Maatman	Head of policy	Yes

		department	
	Stefan Kok	Senior policy officer	Yes
<b>Belgium</b>			
Commissariaat voor Vluchtelingen en Staatlozen	Dirk Van den Bulck	<i>Commissaris-Generaal</i>	Yes
Federaal Agentschap voor de Opvang van Asielzoekers (Fedasil)	Joan Ramakers	<i>Adjunct-directeur operationele diensten</i>	Yes
Vluchtelingenwerk Vlaanderen	Pieter Degryse	Director	Yes
	Kathelijne Houben		
	Stefan Henau		
<b>Italy</b>			
Ministry of Interior	Renato Franceschelli	Prefect, Head of the Department for Civil Liberties and Immigration	Yes
	Alessandra Camporotta		
Dipartimento Immigrazione dell' ANCI	Luca Pacini	Head of Department	Yes
UNHCR (project in Lampedusa)	Paolo Artini	Regional Head of Protection	Yes
CIR	Christopher Hein	Director	Yes
<b>United Kingdom</b>			
Home Office, Border and Immigration Agency	Lin Homer	Director and Chief Executive	Yes
	Neal Barcoe	Assistant Director, Asylum Policy, Border and Immigration Agency	Yes
	Mark Ockelton	Judge, representative of the UK to Eurasil	Yes
British Refugee Council	Helen Muggeridge	International	Yes

		Protection Policy Advisor	
<b>Germany</b>			
BAMF (Federal Office for Migration and Refugees, Federal Ministry of the Interior)	Albert Schmid	President of BAMF	Awaiting written response
DG Migration, integration, refugees and European harmonisation, Federal Ministry of Interior	Gerold Lehnguth	Head of DG	Yes
	Wolfgang Bartsch	Judge, Representative of Germany to Eurasil	Yes
Amnesty Deutschland	Julia Duchrow		Yes
<b>Sweden</b>			
Swedish Migration Board	Ulrik Åshuvud		Yes
Ministry of Foreign Affairs, Department for Migration and Asylum Policy.	Ola Henrikson	Director-General	Yes
Caritas Sverige (works with refugee and social questions in Sweden)			
<b>France</b>			
OFPRA	Benoit Meslin	Secretary General of OFPRA	Yes
	Didier Mouton	Service of European Affairs and International cooperation, Division of Judicial and International affairs	Yes
Ministry of Immigration, integration, national identity and co-development	Jean-Pierre Guardiola	Chef du service de l'asile, Ministère de l'immigration, de l'intégration, de l'identité nationale et	Yes

		du codéveloppement	
	Didier Mouton	Representative of OFPRA, France to Eurasil	Yes
Terre d'asile	Pierre Henry	Director-General	Yes
Forum Refugies	France Charlet	Project manager	Yes
	Mathieu Andre	Unit Europe and International, promotion of asylum issues	Yes
<b>Spain</b>			
Ministry of Labour, Department for migrant's integration, Social Intervention Unit	Roberto Amurrio Inigo	Deputy Director	Yes
Ministry of Interior, Office of Asylum and Refuge (OAR)	Julian Prieto Hergueto	Deputy Director-General for asylum	Yes
	Imaculada Vidal Torregrosa	Documentation officer	Yes
CEAR	Luisa Diaz		Yes
<b>Poland</b>			
Office for Repatriation and Aliens	Marek Szonert	Director of international cooperation	Yes
	Pawel Domanski	Representative to Eurasil	Yes
	Iwona Grudziak	COI Unit	
Caritas Poland	Katarzyna Sekula		Yes
<b>Slovenia</b>			
Ministry of Interior	Nina Gregori	Administrative Internal Affairs Directorate	Yes

Ministry of Interior, Eurasil representative	Ziga Tomc	Representative of Asylum section, Ministry of Interior, Slovenia	Yes
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<b>Table 1.2 Overview of participants to the second brainstorming workshop (11 June 2008)</b>				
<b>Country</b>	<b>Department / Organisation / Position</b>	<b>Mr / Ms</b>	<b>First name</b>	<b>Last name</b>
CZ	Unit for Policy and Analysis, Department for Asylum and Migration Policy Ministry of the Interior of the Czech Republic	Ms	Jaroslava	Posvarova
CY	Permanent Representation of Cyprus to the EU, Attache JHA	Ms	Mary	Epiphaniou
DE	Federal Ministry of Interior	Mr	Christoph	Ehrentraut
FI	Ministry of Interior, Migration Department	Ms	Jutta	Gras
FI	Legal service and country information unit, Finnish immigration service, Director	Ms	Jaana	Vuorio
FR	Ministry of immigration, integration, national identity and development partnership, Deputy head of the asylum department	Ms	Odile	Cluzel
FR	OPFRA, Head of Service	Mr	Didier	Mouton
NL	GDISC	Mr	Bert	van Hoorn
NL	GDISC	Mr	Joel	Schoneveld

**Table 1.2 Overview of participants to the second brainstorming workshop (11 June 2008)**

MT	Policy Development Directorate Ministry for Justice and Home Affairs	Ms	Alison	Gatt
MT	Ministry for Justice and Home Affairs	Ms	Rachelle	Cortis
SL	Permanent Representation of Cyprus to the EU, Asylum and Migration Assistant	Ms	Natasa	Globocnik
UK	UK Home Office	Mr	Neal	Barcoe
NA	UNHCR, Regional Representative	Ms	Judith	Kumin
NA	UNHCR, EU Policy Officer	Ms	Blanche	Tax
NA	ECRE, Head of Advocacy & Development Unit	Ms	Patricia	Coelho
NA	ECRE, Advocacy Officer	Ms	Anne	Peeters
NA	European Commission, DG Justice, Freedom and Security	Mr	Gert Jan	van Holk
NA	European Commission, DG Justice, Freedom and Security	Mr	Lauri	Hollmen
NA	European Commission, DG Justice, Freedom and Security	Ms	Francoise	Comte
NA	GHK	Ms	Petra	van Nierop
NA	GHK	Ms	Hanne	Beirens
NA	GHK	Ms	Katarina	Granath

**ANNEX 2: STATISTICAL DATA**

2.1. Trends in asylum applications and decisions in EU

<b>Table 2.1 – Overview of numbers of asylum claims by country and year</b>										
<b>Country</b>	<b>2006</b>	<b>2005</b>	<b>2004</b>	<b>2003</b>	<b>2002</b>	<b>2001</b>	<b>2000</b>	<b>1999</b>	<b>1998</b>	<b>1997</b>
EU 27	197,410 (p)	234,675 (p)	276,675 (p)	344,800	421,470	424,180	406,585	380,450	313,645	:
EU 25	196,530 (p)	233,490 (p)	275,145 (p)	342,595	417,585	419,470	403,465	377,435	311,575	:
EU 15)	178,640 (p)	210,485 (p)	238,070 (p)	306,410	385,425	375,450	379,530	352,965	295,845	242,845
Austria	13,350 (p)	22,460 (p)	24,635 (p)	32,360	39,355	30,125	18,285	20,130	13,805	6,720
Belgium	8,870 (p)	12,575 (p)	12,400 (p)	13,585	18,800	24,505	42,690	35,780	21,965	11,790
Bulgaria	500 (p)	700 (p)	985 (p)	1,320	2,890	2,430	1,755	1,350	835	370
Cyprus	4,540 (p)	7,715 (p)	9,675 (p)	4,405	950	1,620	650	790	225	:
Czech Republic	2,730 (p)	3,590 (p)	5,300 (p)	11,400	8,485	18,095	8,790	7,355	4,085	2,110
Denmark	1,960	2,280	3,235	4,390	5,945	12,510	10,345	6,530	5,700	5,100
Estonia	5 (p)	10 (p)	10 (p)	15	10	10	5	25	25	-

Finland	2,275 (p)	3,595 (p)	3,575 (p)	3,090	3,445	1,650	3,170	3,105	1,270	970
France	30,750 (pr)	49,735 (pr)	58,545 (pr)	59,770 (r)	51,085	47,290	38,745	30,905	22,375	21,415
Germany	21,030 (p)	28,915 (p)	35,605 (p)	50,565	71,125	88,285	78,565	94,775	98,645	104,355
Greece	12,265 (p)	9,050 (p)	4,470 (p)	8,180	5,665	5,500	3,085	1,530	2,950	4,375
Hungary	2,115 (p)	1,610 (p)	1,600 (p)	2,400	6,410	9,555	7,800	11,500	7,120	:
Ireland	4,240 (p)	4,305 (p)	4,265 (p)	7,485	11,635	10,325	10,940	7,725	4,625	3,880
Italy	10,350 (p)	9,345 (p)	9,630 (p)	13,705	16,015	17,400	15,195	18,450	13,100	1,890
Latvia	10 (p)	20 (p)	5 (p)	5	25	15	5	20	35	:
Lithuania	145 (p)	100 (p)	165 (p)	395	365	425	305	145	160	240
Luxembourg	525 (p)	800 (p)	1,575 (p)	1,550	1,040	685	625	2,930	1,710	435
Malta	1,270 (p)	1,165 (p)	995 (p)	455	350	155	160	255	160	70
Netherlands	14,465 (p)	12,345 (p)	9,780 (p)	13,400	18,665	32,580	43,895	39,275	45,215	34,445
Poland	4,225 (p)	5,240 (p)	7,925 (p)	6,810	5,170	4,480	4,660	3,060	3,425	3,580
Portugal	130 (p)	115 (p)	115 (p)	115	245	235	225	305	355	250
Romania	380 (p)	485 (p)	545 (p)	885	1,000	2,280	1,365	1,665	1,235	1,425
Slovakia	2,850 (p)	3,550 (p)	11,395 (p)	10,300	9,745	8,150	1,555	1,320	505	645



Slovenia	500 (p)	1,550 (p)	1,090 (p)	1,050	650	1,510	9,245	745	335	70
Spain	,295 (p)	5,050 (p)	5,365 (p)	5,765	6,310	9,490	7,925	8,405	4,935	4,975
Sweden	24,320 (p)	17,530 (p)	23,160 (p)	31,355	33,015	23,500	16,285	11,220	12,840	9,680
United Kingdom	28,320 (r)	30,840 (p)	40,625 (p)	60,045	103,080	71,365	80,315	71,160	46,015	32,500

(:) Not available

(p) Provisional value

(r) Revised value

Source: Eurostat

## 2.2 Recognition rates in the EU

**TABLE 2.2. RECOGNITION RATES (%) IN THE EU FOR 6 COUNTRIES OF ORIGIN (2006)**

		Afghanistan	DRC	Eritrea	Ethiopia	Iraq	Iran
	Procedure	Recognition rate (%)	Recognition rate (%)	Recognition rate (%)	Recognition rate (%)	Recognition rate (%)	Recognition rate (%)
<b>Austria</b>	FA	84				73	78
<b>Belgium</b>	FI	19	29			13	24
	AR		6			20	12
<b>Bulgaria</b>	FI	24					
<b>Cyprus</b>	AR						8
	FI					81	12
<b>Denmark</b>	FI	14				2	
<b>Finland</b>	FI					63	
<b>France</b>	AR		13				
	FI		8			23	25
	RA		100				

<b>Germany</b>	NA	23	11	35	8	8	16
	RA	97	86	96		82	78
<b>Greece</b>	FA	2			2		2
<b>Ireland</b>	AR	19	2				17
	FI		12			51	7
<b>Italy</b>	FA	67		85	79		
<b>Malta</b>	FI			70	5		
<b>Netherlands</b>	FI	45	61	78	58	19	33
<b>Poland</b>	FI	38					
<b>Portugal</b>	FI	42					
<b>Spain</b>	FI		8				
<b>Sweden</b>	FI			64		90	29
<b>UK</b>	FI		20	54	21	13	17

NA=New Applications; FI=First instance decisions; AR=Administrative Review decisions; RA=Repeat/reopened applications; FA=Including first instance and appeal/review decisions

The following countries did not have recognition rates for the selected countries of origin: Czech Republic, Estonia, Hungary, Latvia, Lithuania, Luxembourg, Romania, Slovakia, Slovenia

Source: UNHCR, 'Asylum applications and refugee status determination by origin and country/territory of asylum',

[http://www.unhcr.org/cgi-](http://www.unhcr.org/cgi-bin/texis/vtx/home/opendoc.pdf?id=478ce34a2&tbl=STATISTICS)

[bin/texis/vtx/home/opendoc.pdf?id=478ce34a2&tbl=STATISTICS\)](http://www.unhcr.org/cgi-bin/texis/vtx/home/opendoc.pdf?id=478ce34a2&tbl=STATISTICS)

### 2.3. Resettlement

**Table 2.3.1 – EU share of refugees resettled worldwide**

<b>Table 2.3 – EU share of refugees resettled worldwide</b>			
<b>Year</b>	<b>Total number of refugees resettled worldwide</b>	<b>Arrivals (persons) to EU Countries</b>	<b>Total EU intake (%)</b>
2003	27,338	2,441	8.9

2004	42,008	3,469	8.3
2005	38,507	3,130	8.1
2006	29,560	3,697	12.5
2007	49,868	3,935	7.9

Source: UNHCR, 31 October 2008

**Table 2.3.2 Approximate Capacity of Resettlement Countries in 2008 (number of individual places allocated for resettlement)**

UNHCR Working Group on Resettlement

Geneva, 15 October 2008

<b>Approximate Capacity of Resettlement Countries in 2008 (number of individual places allocated for resettlement) <sup>i</sup></b>						
<b>Country of Resettlement</b>	<b>UNHCR Submissions</b>	<b>Private Sponsorship</b>	<b>NGO Submissions</b>	<b>In Country Processing <sup>ii</sup></b>	<b>Family Reunion <sup>iii</sup></b>	<b>Total</b>
<b>Argentina</b>	50	0	0	0	0	50
<b>Australia</b>	6,500 <sup>iv</sup>	7,000 <sup>v</sup>	0	limited	0 <sup>vi</sup>	13,500
<b>Brazil</b>	150	0	0	0	0	150
<b>Canada</b>	6,140 <sup>vii</sup>	3,300 – 4,500	160	1,200 <sup>viii</sup>	0	10,600-12,000
<b>Chile</b>	112	0	0	0	0	112
<b>Denmark</b>	500 <sup>ix</sup>	0	0	0	0	500
<b>Finland</b>	750	0	0	0	0	750
<b>France</b>	400 <sup>x</sup>	400 <sup>xi</sup>	0	0	0	800
<b>Iceland</b>	25-30	0	0	0	0	25-30
<b>Ireland</b>	200	0	0	0	0	200
<b>Netherlands</b>	500	0	0	0	0	500
<b>New Zealand</b>	750 <sup>xii</sup>	0	0	Up to 300 <sup>xiii</sup>	300	1,050
<b>Norway</b>	1,200 <sup>xiv</sup>	0	0	0	0	1,200
<b>Paraguay</b>	15	0	0	0	0	15
<b>Portugal</b>	30	0	0	0	0	30
<b>Sweden</b>	1,900	0	0	0	0	1,900
<b>United Kingdom</b>	750	0	0	0	130 <sup>xv</sup>	880
<b>Uruguay</b>	15	0	0	0	0	15

<b>USA</b>	56,750	0	0	6,550	6,700	70,000
<b>Total<sup>xvi</sup></b>	<b>76,242</b>	<b>12,200</b>	<b>160</b>	<b>8,050</b>	<b>6,830</b>	<b>103,182</b>

**Czech Republic: In 2008 the Czech Republic has taken about 38 persons and is finalising its programme to establish an annual quota.**

**Table 2.3.3 Main features of EU resettlement programmes**

<b>Table 2.4 – Main features of EU resettlement programmes</b>								
	<b>Denmark</b>	<b>Finland</b>	<b>Sweden</b>	<b>UK</b>	<b>Ireland</b>	<b>The Netherlands</b>	<b>Portugal</b>	<b>France</b>
<b>Start of official programme</b>	1978	1979	1950	2003	1998	1977	2007	2008
<b>Quota in 2007</b>	1500 (3 year)	750 (yearly)	1900 (yearly)	500 (yearly)	200 (yearly)	1500 (3 year)	30	*100*
<b>Largest groups of refugees in 2007</b>	Congolese (DRC), Burmese, Burundians	Burmese, Iranians and Somalis	Colombians, Afghans, Iranians	Congolese (DRC), Ethiopians, Burmese, Mauritani ans	Iranian Kurds	Burmese, Ethiopians	Subsharian Africans, Eritreans, Ethiopians	N/A
<b>Resettlement criteria</b>	Protection needs, integration potential	Protection needs, Cf, UNHCR criteria for resettlement, conditions to receive	Protection needs	Protection needs	Protection needs, majority on legal and physical protection	Protection needs, integration potential, humanitarian considerations	N/A	N/A

**Table 2.4 – Main features of EU resettlement programmes**

	<b>Denmark</b>	<b>Finland</b>	<b>Sweden</b>	<b>UK</b>	<b>Ireland</b>	<b>The Netherlands</b>	<b>Portugal</b>	<b>France</b>
		and integrate in FI			grounds			
<b>In country selection</b> <sup>52</sup>	Roughly 400 (yearly)	650	Roughly 850	Yes	Around 160	400 (yearly)	N/A	N/A
<b>Dossier selection</b> <sup>53</sup>	Roughly 100 (yearly)	100 (urgent and emergency)	Remaining quota places	No	Vulnerable cases or 20% of quota	100 (yearly)	N/A	N/A
<b>Urgent and Emergency</b> <sup>54</sup>	75	100	300	No	No	Yes (no fixed number set)	N/A	N/A
<b>Status upon arrival</b>	Temporary residence permit	Permanent residence permit	Permanent residence permit	Permanent residence permit	Permanent residence permit	Revocable residence permit		N/A

*Source: ICMC, Welcome to Europe! A guide to resettlement: A comparative review of Resettlement in Europe.*

<sup>52</sup> States travel with a delegation of government officials to the country of asylum from which they have planned to resettle refugees, to conduct individual interviews with refugees and their dependants, on the basis of which a decision of acceptance or refusal is made.

<sup>53</sup> The case of the refugee is reviewed in the same manner as during a selection mission but no individual interview with the refugee takes place. The decision is based solely on a paper submission by UNHCR that consist primarily of the Resettlement Registration Form.

<sup>54</sup> Selection of candidates is almost invariably done ‘on paper’ as time constraints and safety reasons may not allow for a selection mission.

## ANNEX 3:

### INFORMATION ON PRACTICAL COOPERATION RELATING TO COI

#### Sharing country of origin information (COI)

Article 4 of the Qualification Directive requires that the assessment of an application for international protection should take into account all relevant facts as they relate to the country of origin. This should include laws and regulations of the country of origin and how they are applied. Article 8 of the Asylum Procedures Directive requires Member States to ensure that precise and up-to-date information is made available to personnel responsible for examining applications and taking decisions. This includes information from UNHCR on the general situation in countries of origin or transit of applicants for asylum.

Member States' asylum authorities collect and analyse information on the socio-political situation in countries of origin through different sources. This information is generally referred to as Country of Origin Information (COI). The sources include general public sources, such as reports from UNHCR, the US Department of State on Human Rights, NGOs such as Human Rights Watch and Amnesty International, national and international media, bi-lateral contacts in countries of origin and embassy reports.

Member States' authorities also organise fact-finding missions when on-the-spot data collection or a more reliable and efficient approach appears to be necessary. Some administrations also specialise in collecting information on individual cases where this is necessary to decide on a specific case.

#### Current cooperation

Different fora for cooperation and exchange of information on COI have developed to address the need to share information. Information fora exist on an international level (IGC, A8, UNHCR's *Refworld*) and also on an informal bilateral level. At EU level, asylum practitioners exchange views on COI at **Eurasil**, which was established by the Commission in July 2002 as a network for asylum practitioners. The participants who primarily attend these meetings represent EU Member State authorities responsible for the adjudication of asylum applications in EU Member States (at first instance and also from appeal bodies). UNHCR, other international or non-governmental organisations and experts on certain issues have frequently attended Eurasil.

**Eurasil** has provided a forum for exchanging COI and best practices among EU Member States, asylum adjudicators and the European Commission. Sessions on particular Countries of Origin comprise presentations from Member States with a particular interest in that country as well as field representatives from Member States and international organisations. The activities also help practitioners to enhance working

relationships with each other. **Eurasil** has done important preparatory work, but its current working methods do not provide the means for a structural follow-up. The legal and political imperatives given by the adoption of the Qualification Directive and the Asylum Procedures Directive make clear that a more systematic approach to COI is required.

The ARGO financial programme has produced examples of concrete joint action on COI between several Member States. Under ARGO 2003, two projects were funded which supported fact finding missions to third countries with significant refugee producing situations. Those projects should serve as a model for future missions and their findings would be shared among all 27 Member States.

### **How to achieve joint compilation, assessment and application of COI**

The practical needs of Member States in the COI field vary greatly. Some Member States have invested heavily in this area and run sophisticated COI systems while others retain more basic systems or rely on the services of NGOs or UNHCR. The need for all Member States to apply COI in the same way and using, if possible, the same sources is inherent in the logic of the Common European Asylum System.

Ensuring access to the same COI sources is the first challenge. To this end, the establishment and development of an EU ‘common portal’ for accessing COI sources should be the key initial activity for the EU in aiming for the joint approach called for in the Hague Programme. Joint compilation, assessment and application of COI in support of the Common European Asylum System means that Member States should have access to a common repository of COI that is assembled in compliance with common standards and principles.

### **The creation of EU-wide Common portal for COI**

The first step in this process, which will be key to the future structure to support ongoing cooperation in the field of asylum (possibly EASO=European Asylum Support Office) to be developed under the EC Treaty, is to establish an easily accessible common entry point for existing information. This is to be achieved by creating a one-stop ‘common portal’ through which all Member States authorities could access all official COI databases.

Also available via the ‘common portal’ will be the legislation of each Member State transposing the Community legal instruments which are central to the Common European Asylum System plus Community legislation, relevant national and EC case law, information produced by the Commission’s external services on specific countries and other official sources of information.

A ‘common portal’ provides a useful additional resource, particularly for those Member States with less well developed COI resources. Time is saved by accessing key official databases through one stop rather than searching and downloading individually from different sites. The ‘common portal’ will most likely be, at the beginning, simply a

gateway to existing information on COI, possibly without any agreed standards for such information. Nevertheless, it will represent a first step towards the common approach envisaged in the Hague Programme as it can provide a platform on which a future EU COI database could be built.

The Commission carried out a feasibility study into the creation of a Common EU COI portal in 2007. After identifying Member State needs and the official databases used by Eurasil States (BE - Globe, CH - Mila, DE - Milo, IE, AT in connection to Accord) and some international organisations (UNHCR - Refworld, Red Cross – Accord and IGC) the Commission paved the way to develop a suitable IT solution to establishing a common portal in 2009 (indicative timetable). A pilot project to find the "best" prototype for the portal is underway and will be finalised before the end of 2008. It is intended that the "construction phase" will then begin and that the portal can become operational within 12-18 months of that phase being initiated.

### **Common Guidelines on the production of COI**

In parallel, another step would be to formally agree on guidelines on the production of COI. Experience in the framework of Eurasil has shown that standards vary widely in the collection and verification of COI among Member States, but that there is nevertheless scope for agreement on at least a set of common basic principles.

An ARGO project undertaken by five Eurasil States developed a set of "common guidelines for processing COI" in 2008, and the Commission can at a later stage propose common basic principles on the production of COI. Such principles would address issues such as transparency, cross-checking and citation, as well as training COI researchers and conducting fact-finding missions. The application of these principles to Member States' own COI is the first step towards the longer term objective of harmonised application of COI in line with the Hague Programme objectives.

### **Addressing translation challenges**

A pragmatic solution needs to be found to the translation difficulties facing Member States. Some Member States' courts can accept COI that is not translated into the language of the Member State; some insist that everything admitted to the court should be translated into the language of the Member State. There are also practical difficulties for COI practitioners in reading and understanding diverse COI sources. It is not practical or feasible to undertake a comprehensive translation of all relevant COI into English and then into all 20 Community languages.

The Eurasil COI -experts can advise on how to prioritise translation needs and on what needs to be translated. If this can be achieved on a small scale, using available financial resources, to address needs or help ease the burden in those Member States facing the most difficulties, then a larger and more ambitious undertaking will be examined when deciding whether to set up an EU COI database (this has not yet been agreed to politically).



## **The EU COI Database**

In order to achieve the ambitious objective of a common Asylum Procedure, it will be necessary to ensure that Member States can not only access the same information but also that that information is produced and applied in a harmonised way. Therefore, once the portal is operational and guidelines for producing COI formalised, the time could be ripe to move to a fully-fledged EU COI database, if there is political agreement. This obviously entails serious resource implications and large scale IT and technical requirements to set up and maintain such a system. The establishment and maintenance of an EU COI database would clearly be the province of a future structure set up to support practical cooperation in the field of asylum. The financial and technical implications of taking this step will need to be examined.

**ANNEX 4: EX- ANTE FINANCIAL ANALYSIS  
(EXCEL TABLES)**

**Detailed cost analysis for**

**- EC Commission Unit**

Category	Specification	Estimated start-up costs	Minimum ongoing costs	Maximum ongoing costs	Comments
<b>Title 1 - Staff costs</b>					
Director	Not applicable				No director required
Senior / technical staff	Commission staff Estimated between 7 - 9 FTEs	NA	714.068	918.087	Staff comprises both human resources within the unit itself as well as financial staff, control and auditing staff, etc.
Administrative and other support staff	Commission staff Estimated between 4 - 6 FTEs	NA	248.990	373.486	Staff comprises both human resources within the unit itself as well as administrative and support staff from other units within the DG.
Staff benefits	Estimated 15% of total staff costs	NA	144.459	193.736	
Staff training	Estimated at 500 per FTE	NA	5.500	7.500	
<b>Title 2 – Building, equipment and administrative expenditure</b>					
Information technologies / data-processing	Database development and maintenance, computer software and related updates, etc. <i>COI portal</i>	250.000	250.000	1.000.000	This heading mainly comprises the development and maintenance of the COI portal. It covers also other computer systems to be developed. Some elements are already covered by the EC overall budget. COI portal The exact costs of the portal cannot be estimated without additional research. Its development and maintenance could be (partly) outsourced.
Infrastructure	Not applicable				Infrastructure is covered by the overall EC budget
Equipment		20.000	1.000	5.000	Start-up costs mainly relate to the purchasing of specific hardware to host the COI portal. Ongoing costs relate to regular updating of this equipment. Additional expenses for video-conferencing.
Overheads	Not applicable				Overheads are covered by the overall EC budget
<b>Title 3 – Operations</b>					
Coordination unit	Not applicable				
Risk / needs analysis	<i>Exchange best practices Support to monitoring and quality control Resettlement Intra-EU relocation</i>	NA	250.000	500.000	Identification of risks and needs under the different tasks, supported by analytical work. The Commission could outsource part of these activities to existing networks or contractors.
Direct support	<i>Resettlement Intra-EU relocation</i>	NA	-	100.000	Inputs to resettlement scheme. The latter inputs are unlikely to happen in the short term and would only be minimal. Advisory role to the intra-EU relocation scheme, a task which is not likely to happen in the short term.

Capacity building / training	<i>Exchange best practices Support to monitoring and quality control Joint production of COI</i>	NA	150.000	400.000	Organisation and facilitation of exchanges, peer learning and information sharing. Organisation and facilitation could be outsourced in part to existing networks or contractors.
Planning, research and development	<i>Exchange best practices Support to monitoring and quality control Joint production of COI Intra-EU relocation</i>	NA	250.000	500.000	Data collection, research, analysis to support the risk / needs analysis and capacity building elements of these tasks.
External relations	Liaison and cooperation with external actors	NA	100.000	250.000	Inputs to liaison and cooperation with third countries, IGOs, other cooperation structures and EU bodies (e.g. participation / organisation of meetings, preparation of briefing materials, etc). Under these Policy options the costs remain high as the cooperation structures all continue to exist.
Information, communication and dissemination	Development of information, communication and dissemination strategies, tools and products.	50.000	100.000	200.000	Development and implementation of a strategy and methodological tools, website, brochures and other documents. Start-up costs relate to drafting of strategy and tools.
Events, meetings and missions	Meetings Eurasil (8-12 for 50 persons) Organisation of events (5-10 for 50 persons) Missions (15-25 missions of 1 person)	NA	745.000	1.285.000	The Commission would fund the meetings of EURASIL. In addition, it would organise events to promote peer learning, good practice and information exchanges, etc. and to convene specific working / expert groups. Finally, it could finance missions of experts or staff.
<b>Total</b>		<b>320.000</b>	<b>2.959.017</b>	<b>5.732.809</b>	
Financing	<i>Financing stream Financing stream providing grants to practical cooperation, as part of the ERF Community Actions</i>	NA	2.000.000	5.000.000	This heading relates to additional activities that could be financed, for example in case of particular pressures or burden in certain Member States. The unit could be involved in decision making of the financial unit as to the allocation of funding.

## - Network

Category	Specification	Estimated start-up costs	Minimum ongoing costs	Maximum ongoing costs	Comments
<b>Title 1 - Staff costs</b>					
Director	Not applicable	NA			No director required
Senior technical staff	Commission staff Estimated between 5 - 7 FTEs	NA	510.049	714.068	Staff comprises both human resources within the unit itself as well as financial staff, control and auditing staff, etc.
Administrative and other support staff	Commission staff Estimated between 4 - 6 FTEs	NA	248.990	373.486	Staff comprises both human resources within the unit itself as well as administrative and support staff from other units within the DG.
Staff benefits	Estimated 15% of total staff costs	NA	113.856	163.133	
Staff training	Estimated at 500 per FTE	NA	4.500	6.500	
<b>Title 2 - Building, equipment and administrative expenditure</b>					

Information technologies / data-processing	Database development and maintenance, computer software and related updates, etc. <i>COI portal</i>	250.000	250.000	1.000.000	This heading mainly comprises the development and maintenance of the COI portal. It covers also other computer systems to be developed. Some elements are already covered by the EC overall budget. COI portal The exact costs of the portal cannot be estimated without additional research. Its development and maintenance could be (partly) outsourced.
Infrastructure	Costs for renting office space to host the coordination unit	15.000	20.000	50.000	It is assumed that the coordination unit would rent a specific office space in the vicinity of the Commission. Costs increase depending on the requirements for this space (e.g. availability of meeting rooms). Start-up costs relate to renovation / preparation of the space.
Equipment	Purchasing of equipment, furniture and specific computer hardware	30.000	3.000	10.000	Start up costs relate to setting up the office and to purchasing of hardware for the portals / databases, video-conferencing, etc. Ongoing costs relate to regular updating of this equipment and furniture, etc.
Overheads		NA	35.000	105.000	Overheads are not calculated on the FTEs above, as they would be incurred by the coordination unit. They are therefore set as 7% of the contracted value of this unit (see below).
<b>Title 3 – Operations</b>					
Coordination unit	Costs for contracting a coordination unit	NA			Contracting of a coordination unit to provide technical assistance to the Commission. The costs variations relate to differences in the work programme of the network and the task package of the unit.
Risk / needs analysis	<i>Exchange best practices</i> <i>Support to monitoring and quality control</i> <i>Resettlement</i>	NA	200.000	400.000	Identification of risks and needs under the different tasks, supported by analytical work. Part of these activities could initially be outsourced to / taken forward by existing cooperation structures and gradually being integrated in the network.
Direct support	<i>Resettlement</i>	NA	-	50.000	Inputs to resettlement scheme. The latter inputs are unlikely to happen in the short term and would only be minimal.
Capacity building / training	<i>Exchange best practices</i> <i>Support to monitoring, quality control and enforcement</i> <i>Joint production of COI</i> <i>Training and capacity building</i>	NA	300.000	750.000	Organisation and facilitation of exchanges, peer learning and information sharing. Preparation of guidelines and needs assessments. Delivery of training and capacity building exercises Organisation, facilitation and delivery could be outsourced in part to existing networks or contractors.
Planning, research and development	<i>Exchange best practices</i> <i>Support to monitoring and quality control</i> <i>Joint production of COI</i> <i>Training and capacity building</i>	NA	350.000	600.000	Data collection, research, analysis to support the risk / needs analysis and capacity building elements of these tasks. Development of training methods and courses (including e-learning). Part of these activities could initially be outsourced to / taken forward by existing cooperation structures and gradually being integrated in the network.
External relations	Liaison and cooperation with external actors	NA	100.000	250.000	Inputs to liaison and cooperation with third countries, IGOs, other cooperation structures and EU bodies (e.g. participation / organisation of meetings, preparation of briefing materials, etc). Under this Policy option the costs remain high as most cooperation structures continue to exist.
Information, communication and dissemination	Development of information, communication and dissemination strategies, tools and products.	50.000	100.000	200.000	Development of a strategy and methodological tools, website, brochures and other documents. Start-up costs relate to drafting of strategy and tools.

Events, meetings and missions	Meetings EURASIL (8-12 for 50 persons) Meetings with Steering Group (8-12 for 30 persons) Meetings with Consultative Committee (4-8 for 20 persons) Organisation of events (10-15 for 50 persons) Missions (15-25 missions of 1 person)	NA	1.235.000	1.895.000	The Commission would fund the meetings of EURASIL. It would finance the meetings of the Steering Group and of the Consultative Committee. In addition, it would organise events to promote peer learning, good practice and information exchanges, etc. and to convene specific working / expert groups. Finally, it could finance missions of experts or staff.
<b>Total</b>		<b>345.000</b>	<b>3.970.395</b>	<b>8.067.187</b>	

### - Merge of Support Asylum Structure into FRA

Category	Specification	Estimated start-up costs	Minimum ongoing costs	Maximum ongoing costs	Comments
<b>Title 1 - Staff costs</b>					
Senior technical staff /	Commission staff Estimated between 2 - 4 FTEs	NA	204.019	408.039	Staff comprises both human resources within the unit itself as well as financial staff, control and auditing staff, etc.
Administrative and other support staff	Commission staff Estimated between 3 - 6 FTEs	NA	186.743	373.486	Staff comprises both human resources within the unit itself as well as administrative and support staff from other units within the DG.
Director		NA	NA	NA	Director of FRA already in place
Coordination unit staff Senior technical staff /	Agency staff Estimated between 2-4 FTEs	NA	204.019	408.039	Staff to reinforce the coordination unit
Coordination unit staff Administrative staff	Agency staff Estimated between 2 - 4 FTEs	NA	124.495	248.990	Staff to reinforce the coordination unit
Senior technical staff /	Agency staff Estimated between 20 - 30 FTEs	NA	2.040.194	3.060.292	Staff to man the asylum department of FRA
Administrative and other support staff	Agency staff Estimated between 5 - 8 FTEs	NA	311.238	497.981	Staff to man the asylum department of FRA
Staff benefits	Estimated 15% of total staff costs	NA	352.715	533.741	
Staff training	Estimated at 500 per FTE	NA	14.500	23.000	
<b>Title 2 - Building, equipment and administrative expenditure</b>					

Information technologies / data-processing	Database development and maintenance, computer software and related updates, etc. <i>COI portal</i>	500.000	500.000	1.000.000	This heading comprises all information technologies and data-processing activities of the agency. It also includes the development and maintenance of the COI portal. The exact costs of the COI portal cannot be estimated without additional research. Its development and maintenance could be (partly) outsourced.
Infrastructure	Costs for renting office space to host the agency.	NA	248.571	353.846	FRA is already settled in Vienna. Costs cover the rent of new office space to host the new staff. Note: the additional amount is spread over infrastructure and overheads. Note: amounts of EASO taken as basis for calculation
Equipment	Purchasing of equipment, furniture and specific computer hardware	50.000	10.357	22.115	Costs relate to purchasing of hardware for the portals / databases, video-conferencing, etc. Ongoing costs relate to regular updating of this equipment and furniture, etc. Note: amounts of EASO taken as basis for calculation
Overheads			187.596	295.071	
<b>Title 3 – Operations</b>					
Coordination unit	Not applicable				
Risk / needs analysis	<i>Exchange best practices</i> <i>Support to monitoring and quality control</i> <i>Pool of asylum experts</i> <i>Intra-EU relocation</i> <i>Regional Protection Programmes</i> <i>Resettlement</i>	NA	250.000	600.000	Identification of risks and needs under the different tasks, supported by analytical work.
Direct support	<i>Pool of asylum experts</i> <i>Resettlement</i> <i>Intra-EU relocation</i>	NA	150.000	600.000	Activation of experts (fees for secondment of experts for 20-30 missions of 10 working days) Inputs to intra-EU relocation and resettlement schemes. The latter inputs are unlikely to happen in the short term.
Capacity building / training	<i>Exchange best practices</i> <i>Support to monitoring and quality control</i> <i>Joint production of COI</i> <i>Pool of asylum experts</i> <i>Training and capacity building</i>	NA	450.000	1.000.000	Organisation and facilitation of exchanges, peer learning and information sharing. Preparation of guidelines and needs assessments. Inputs to the experts pool database and management of the pool. Delivery of training and capacity building exercises. Joint work on COI collection, production and assessment

Planning, research and development	<i>Exchange best practices Support to monitoring and quality control Joint production of COI Joint assessment of COI Intra-EU relocation Training and capacity building Regional Protection Programmes</i>	NA	450.000	1.000.000	Data collection, research, analysis to support the risk / needs analysis and capacity building elements of these tasks. Development of training methods and courses (including e-learning). Part of these activities could initially be outsourced.
External relations	Liaison and cooperation with external actors	NA	50.000	100.000	Inputs to liaison and cooperation with third countries, IGOs, other cooperation structures and EU bodies (e.g. participation / organisation of meetings, preparation of briefing materials, etc). Under this Policy option the costs are lower as some existing cooperation structures would cease to exist and FRA would gradually become the single interlocutor on behalf of the EU.
Information, communication and dissemination	Development of information, communication and dissemination strategies, tools and products.	50.000	150.000	300.000	Development of a strategy and methodological tools, website, brochures and other documents. Start-up costs relate to drafting of strategy and tools. It will be important for the agency to increase awareness and to promote its results.
Events, meetings and missions	(Meetings of the Management Board (8-12 for 30-40 persons). Organisation of events, working and expert group meetings (15-25 for 50 persons) Missions (20-30 missions of 1 person)	NA	770.000	1.280.000	The meetings of the Management Board already take place: costs not included as a result of economy of scale. In addition, it would organise events to promote peer learning, good practice and information exchanges, etc. and to convene specific working / expert groups. EURASIL would be one of the experts groups. Finally, it could finance missions of experts or staff.
<b>Total</b>		<b>600.000</b>	<b>6.654.449</b>	<b>12.104.600</b>	

### - Merge of Support Asylum Structure into FRONTEX

Category	Specification	Estimated start-up costs	Minimum ongoing costs	Maximum ongoing costs	Comments
<b>Title 1 - Staff costs</b>					
Senior technical staff /	Commission staff Estimated between 2 - 3 FTEs	NA	204.019	306.029	Staff comprises both human resources within the unit itself as well as financial staff, control and auditing staff, etc.
Administrative and other support staff	Commission staff Estimated between 3 - 5 FTEs	NA	186.743	311.238	Staff comprises both human resources within the unit itself as well as administrative and support staff from other units within the DG.
Director		NA	NA	NA	Director of FRONTEX already in place
Coordination unit staff / Senior technical staff	Agency staff Estimated between 2-4 FTEs	NA	204.019	408.039	Staff to reinforce the coordination unit
Coordination unit staff / Administrative staff	Agency staff Estimated between 2 - 4 FTEs	NA	124.495	248.990	Staff to reinforce the coordination unit

Senior technical staff /	Agency staff Estimated between 20 - 30 FTEs	NA	2.040.194	3.060.292	Staff to man the asylum department of FRONTEX
Administrative and other support staff	Agency staff Estimated between 5 - 8 FTEs	NA	311.238	497.981	Staff to man the asylum department of the agency
Staff benefits	Estimated 15% of total staff costs	NA	352.715	533.741	
Staff training	Estimated at 500 per FTE	NA	14.500	23.000	
<b>Title 2 – Building, equipment and administrative expenditure</b>					
Information technologies / data-processing	Database development and maintenance, computer software and related updates, etc. <i>COI portal</i>	500.000	500.000	1.000.000	This heading comprises all information technologies and data-processing activities of the agency. It also includes the development and maintenance of the COI portal, as well as the broader information portal and experts pool database. <i>COI portal</i>
Infrastructure	Costs for renting office space to host the agency.	NA	248.571	353.846	FRONTEX is already settled in Warsaw. Costs cover the rent of new office space to host the new staff. Note: amounts of EASO taken as basis for calculation
Equipment	Purchasing of equipment, furniture and specific computer hardware	50.000	10.357	22.115	Costs relate to purchasing of hardware for the portals / databases, video-conferencing, etc. Ongoing costs relate to regular updating of this equipment and furniture, etc. Note: amounts of EASO taken as basis for calculation
Overheads			187.596	295.071	
<b>Title 3 – Operations</b>					
Coordination unit	Not applicable				
Risk / needs analysis	<i>Exchange best practices Support to monitoring, quality control and enforcement Pool of asylum experts Intra-EU relocation Regional Protection Programmes Resettlement</i>	NA	250.000	600.000	Identification of risks and needs under the different tasks, supported by analytical work.
Direct support	<i>Pool of asylum experts Resettlement Intra-EU relocation</i>	NA	150.000	600.000	Activation of experts (fees for secondment of experts for 20-30 missions of 10 working days) Inputs to intra-EU relocation and resettlement schemes. The latter inputs are unlikely to happen in the short term.
Capacity building / training	<i>Exchange best practices Support to monitoring, quality control and enforcement Joint production of COI Pool of asylum experts Training and capacity building</i>	NA	450.000	1.000.000	Organisation and facilitation of exchanges, peer learning and information sharing. Preparation of guidelines and needs assessments. Inputs to the experts pool database and management of the pool. Delivery of training and capacity building exercises. <i>Joint</i>



Planning, research and development	<i>Exchange best practices</i> <i>Support to monitoring, quality control and enforcement</i> <i>Joint production of COI</i> <i>Joint assessment of COI</i> <i>Financial support (advisory role)</i> <i>Intra-EU relocation</i> <i>Training and capacity building</i> <i>Regional Protection Programmes</i>	NA	450.000	1.000.000	Data collection, research, analysis to support the risk / needs analysis and capacity building elements of these tasks. Development of training methods and courses (including e-learning). Part of these activities could initially be outsourced.
External relations	Liaison and cooperation with external actors	NA	50.000	100.000	Inputs to liaison and cooperation with third countries, IGOs, other cooperation structures and EU bodies (e.g. participation / organisation of meetings, preparation of briefing materials, etc). Under this Policy option the costs are lower as some existing cooperation structures would cease to exist and Frontex would gradually become the single interlocutor on behalf of the EU.
Information, communication and dissemination	Development of information, communication and dissemination strategies, tools and products.	50.000	150.000	300.000	Development of a strategy and methodological tools, website, brochures and other documents. Start-up costs relate to drafting of strategy and tools. It will be important for the agency to increase awareness and to promote its results.
Events, meetings and missions	(Meetings of the Management Board (8-12 for 30-40 persons). Organisation of events, working and expert group meetings (15-25 for 50 persons) Missions (20-30 missions of 1 person)	NA	770.000	1.280.000	The meetings of the Management Board already take place (costs removed from the calculation). In addition, it would organise events to promote peer learning, good practice and information exchanges, etc. and to convene specific working / expert groups.
<b>Total</b>		<b>600.000</b>	<b>6.654.449</b>	<b>11.940.342</b>	

### - Merge of Support Asylum Structure into the future IT-Agency

Category	Specification	Estimated start-up costs	Minimum ongoing costs	Maximum ongoing costs	Comments
<b>Title 1 - Staff costs</b>					
Senior technical staff /	Commission staff Estimated between 3 - 5 FTEs	NA	306.029	510.049	Staff comprises both human resources within the unit itself as well as financial staff, control and auditing staff, etc.
Administrative and other support staff	Commission staff Estimated between 4 - 8 FTEs	NA	248.990	497.981	Staff comprises both human resources within the unit itself as well as administrative and support staff from other units within the DG.
Director		NA	NA	NA	Director of IT AGENCY to be appointed
Coordination unit staff / Senior technical staff	Agency staff Estimated between 2-4 FTEs	NA	204.019	408.039	Staff to reinforce the coordination unit
Coordination unit staff / Administrative staff	Agency staff Estimated between 2 - 4 FTEs	NA	124.495	248.990	Staff to reinforce the coordination unit
Senior technical staff /	Agency staff Estimated between 20 - 30 FTEs	NA	2.040.194	3.060.292	Staff to man the asylum department of the IT agency

Administrative and other support staff	Agency staff Estimated between 5 - 8 FTEs	NA	311.238	497.981	Staff to man the asylum department of the IT agency
Staff benefits	Estimated 15% of total staff costs	NA	352.715	533.741	
Staff training	Estimated at 500 per FTE	NA	14.500	23.000	
<b>Title 2 – Building, equipment and administrative expenditure</b>					
Information technologies / data-processing	Database development and maintenance, computer software and related updates, etc. <i>COI portal</i>	500.000	500.000	1.000.000	This heading comprises all information technologies and data-processing activities of the agency. It also includes the development and maintenance of the COI portal, as well as the broader information portal and experts pool database.
Infrastructure	Costs for renting office space to host the agency.	NA	248.571	353.846	Note: amounts of EASO taken as basis for calculation.
Equipment	Purchasing of equipment, furniture and specific computer hardware	50.000	10.357	22.115	Costs relate to purchasing of hardware for the portals / databases, video-conferencing, etc. Ongoing costs relate to regular updating of this equipment and furniture, etc. Note: amounts of EASO taken as basis for calculation
Overheads			187.596	295.071	
<b>Title 3 – Operations</b>					
Coordination unit	Not applicable				
Risk / needs analysis	<i>Exchange best practices Support to monitoring and quality control Pool of asylum experts Intra-EU relocation Regional Protection Programmes Resettlement</i>	NA	250.000	600.000	Identification of risks and needs under the different tasks, supported by analytical work.
Direct support	<i>Pool of asylum experts Resettlement Intra-EU relocation</i>	NA	150.000	600.000	Activation of experts (fees for secondment of experts for 20-30 missions of 10 working days) Inputs to intra-EU relocation and resettlement schemes. The latter inputs are unlikely to happen in the short term.
Capacity building / training	<i>Exchange best practices Support to monitoring and quality control Joint production of COI Pool of asylum experts Training and capacity building</i>	NA	450.000	1.000.000	Organisation and facilitation of exchanges, peer learning and information sharing. Preparation of guidelines and needs assessments. Inputs to the experts pool database and management of the pool. Delivery of training and capacity building exercises. Joint
Planning, research and development	<i>Exchange best practices Support to monitoring and quality control Joint production of COI Joint assessment of COI Intra-EU relocation Training and capacity building Regional Protection</i>	NA	450.000	1.000.000	Data collection, research, analysis to support the risk / needs analysis and capacity building elements of these tasks. Development of training methods and courses (including e-learning). Part of these activities could initially be outsourced.

	<i>Programmes</i>				
External relations	Liaison and cooperation with external actors	NA	50.000	100.000	Inputs to liaison and cooperation with third countries, IGOs, other cooperation structures and EU bodies (e.g. participation / organisation of meetings, preparation of briefing materials, etc). Under this Policy option the costs are lower as some existing cooperation structures would cease to exist and the IT Agency would gradually become the single interlocutor on behalf of the EU.
Information, communication and dissemination	Development of information, communication and dissemination strategies, tools and products.	50.000	150.000	300.000	Development of a strategy and methodological tools, website, brochures and other documents. Start-up costs relate to drafting of strategy and tools. It will be important for the agency to increase awareness and to promote its results.
Events, meetings and missions	(Meetings of the Management Board (8-12 for 30-40 persons). Organisation of events, working and expert group meetings (15-25 for 50 persons) Missions (20-30 missions of 1 person)	NA	770.000	1.280.000	Meetings of management board: To be adapted in view of costs of IT-agency. Same calculation method as for Frontex and FRA (costs removed from the calculation) In addition, it would organise events to promote peer learning, good practice and information exchanges, etc. and to convene specific working / expert groups.
<b>Total</b>		<b>600.000</b>	<b>6.818.706</b>	<b>12.331.105</b>	

#### - European Asylum Support Office (EASO)

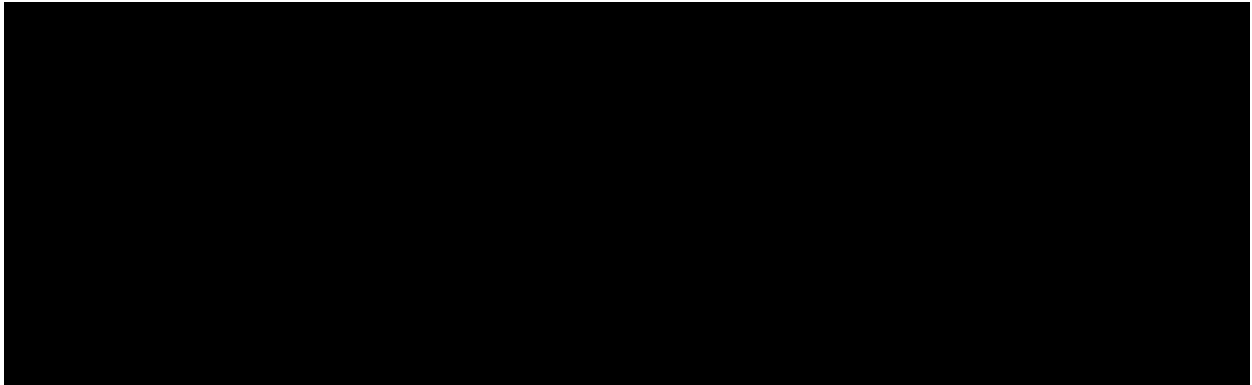
Category	Specification (2011 onwards)	Estimated start-up staff 2010	Estimated start-up costs 2010	Minimum ongoing costs (2011 onwards)	Maximum ongoing costs (2011 onwards)	Comments
<b>Title 1 - Staff costs</b>						
Senior technical staff /	Commission staff Estimated between 2 - 5 FTEs	See maximum on-going costs	459.044	204.019	459.044	Staff comprises both human resources within the unit itself as well as financial staff, control and auditing staff, etc.
Administrative and other support staff	Commission staff Estimated between 3 - 5 FTEs	See maximum on-going costs	217.867	186.743	217.867	Staff comprises both human resources within the unit itself as well as administrative and support staff from other units within the DG.
Director	Agency staff 1 FTE	Not applicable	-	167.171	167.171	
Coordination unit staff / Senior technical staff	Agency staff Estimated between 6 - 7 FTEs	Agency staff Estimated 2 FTEs	204.019	612.058	714.068	Staff to man the coordination unit of the Agency
Coordination unit staff / Administrative staff	Agency staff Estimated between 6 - 7 FTEs	Agency staff Estimated 2 FTEs	124.495	373.486	435.733	Staff to man the coordination unit of the Agency

Senior technical staff /	Agency staff Estimated between 30 - 50 FTEs	Agency staff Estimated 15 FTEs	1.530.146	3.060.292	5.100.486	Staff to man the various departments of the Agency
Administrative and other support staff	Agency staff Estimated between 17 - 29 FTEs	Agency staff Estimated 5 FTEs	311.238	1.058.209	1.805.180	Staff to man the various departments of the Agency
Staff benefits	Estimated 15% of total staff costs		276.208	617.775	1.035.850	
Staff training	Estimated at 500 per FTE		12.000	35.000	52.000	
<b>Title 2 – Building, equipment and administrative expenditure</b>						
Information technologies / data-processing	Database development and maintenance, computer software and related updates, etc. <i>COI portal</i>		500.000	500.000	1.000.000	This heading comprises all information technologies and data-processing activities of the agency. It also includes the development and maintenance of the COI portal, as well as the broader information portal and experts pool database. COI portal The exact costs of the portal cannot be estimated without additional research. Its development and maintenance could be (partly) outsourced.
Infrastructure	Costs for renting office space to host the agency.		50.000	600.000	800.000	The agency will establish its office in a Member State still to be defined. For this reason the costs may vary greatly. Start-up costs relate to renovation / preparation of the space. These costs are based on costs of existing agencies (FRA and FRONTEX)
Equipment	Purchasing of equipment, furniture and specific computer hardware		50.000	25.000	50.000	Start up costs relate to setting up the office and to purchasing of hardware for the portals / databases, video-conferencing, etc. Ongoing costs relate to regular updating of this equipment and furniture, etc.
Overheads				368.985	575.585	
<b>Title 3 – Operations</b>						
Risk / needs analysis	<i>Exchange best practices Support to monitoring and quality control Pool of asylum experts Intra-EU relocation Regional Protection Programmes Resettlement</i>	See minimum on-going costs	250.000	250.000	600.000	Identification of risks and needs under the different tasks, supported by analytical work.
Direct support	<i>Pool of asylum experts Resettlement Intra-EU relocation</i>	See minimum on-going costs	150.000	150.000	600.000	Activation of experts (fees for secondment of experts for 20-30 missions of 10 working days) Inputs to intra-EU relocation and resettlement schemes. The latter inputs are unlikely to happen in the short term.

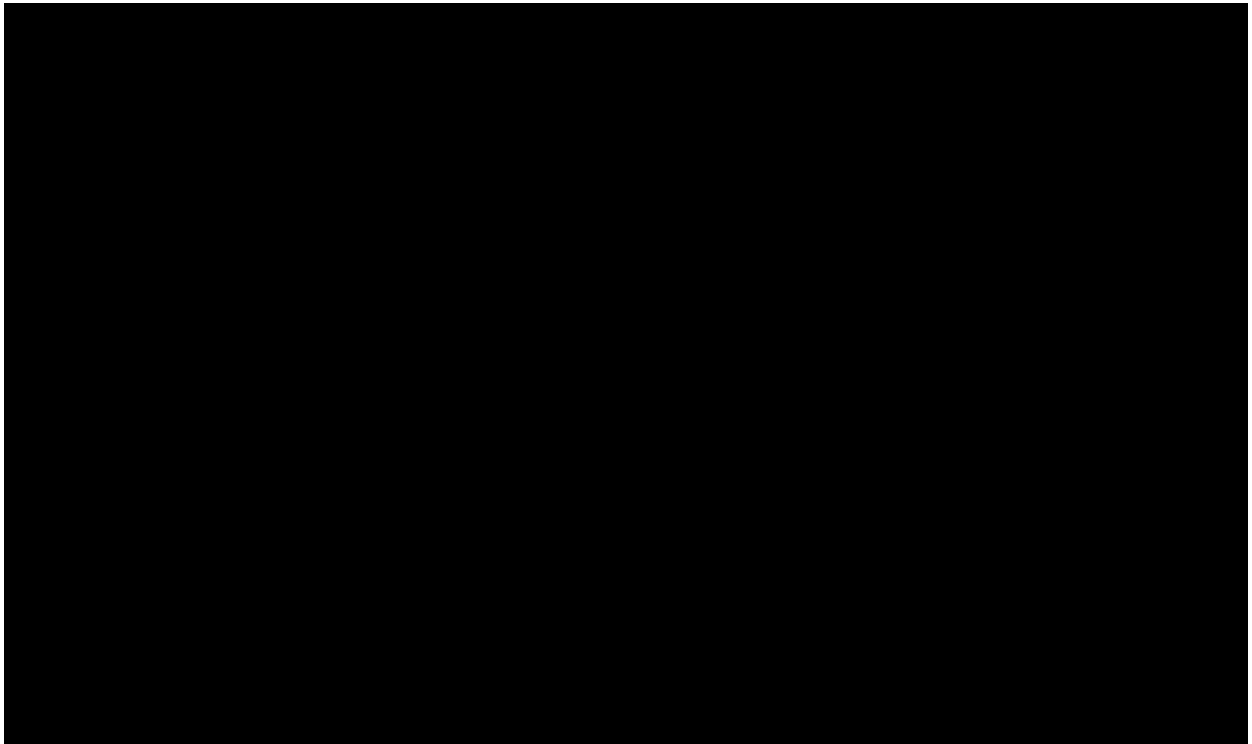
Capacity building training /	<i>Exchange best practices Support to monitoring and quality control Joint production of COI Pool of asylum experts Training and capacity building</i>	See minimum on-going costs	450.000	450.000	1.000.000	Organisation and facilitation of exchanges, peer learning and information sharing. Preparation of guidelines and needs assessments. Inputs to the experts pool database and management of the pool. Delivery of training and capacity building exercises. Joint work on COI collection, production and assessment
Planning, research and development	<i>Exchange best practices Support to monitoring and quality control Joint production of COI Joint assessment of COI Intra-EU relocation Training and capacity building Regional Protection Programmes</i>	See minimum on-going costs	450.000	450.000	1.000.000	Data collection, research, analysis to support the risk / needs analysis and capacity building elements of these tasks. Development of training methods and courses (including e-learning). Part of these activities could initially be outsourced.
External relations	Liaison and cooperation with external actors	See minimum on-going costs	50.000	50.000	100.000	Inputs to liaison and cooperation with third countries, IGOs, other cooperation structures and EU bodies (e.g. participation / organisation of meetings, preparation of briefing materials, etc). Under this Policy option the costs are lower as some existing cooperation structures would cease to exist and the agency would gradually become the single interlocutor on behalf of the EU.
Information, communication and dissemination	Development of information, communication and dissemination strategies, tools and products.		50.000	150.000	300.000	Development of a strategy and methodological tools, website, brochures and other documents. Start-up costs relate to drafting of strategy and tools. It will be important for the agency to increase awareness and to promote its results.
Events, meetings and missions	Meetings of the Management Board (8-12 for 30-40 persons). Organisation of events, working and expert group meetings (15-25 for 50 persons) Missions (20-30 missions of 1 person)	See minimum on-going costs	1.010.000	1.010.000	1.600.000	The agency would finance all meetings of the Management Board. In addition, it would organise events to promote peer learning, good practice and information exchanges, etc. and to convene specific working / expert groups. EURASIL would be one of the experts groups. Finally, it could finance missions of experts or staff.
<b>Total agency</b>			<b>6.145.016</b>	<b>10.318.738</b>	<b>17.612.984</b>	

**ANNEX 5: FINANCIAL ADDITIONAL DATA**

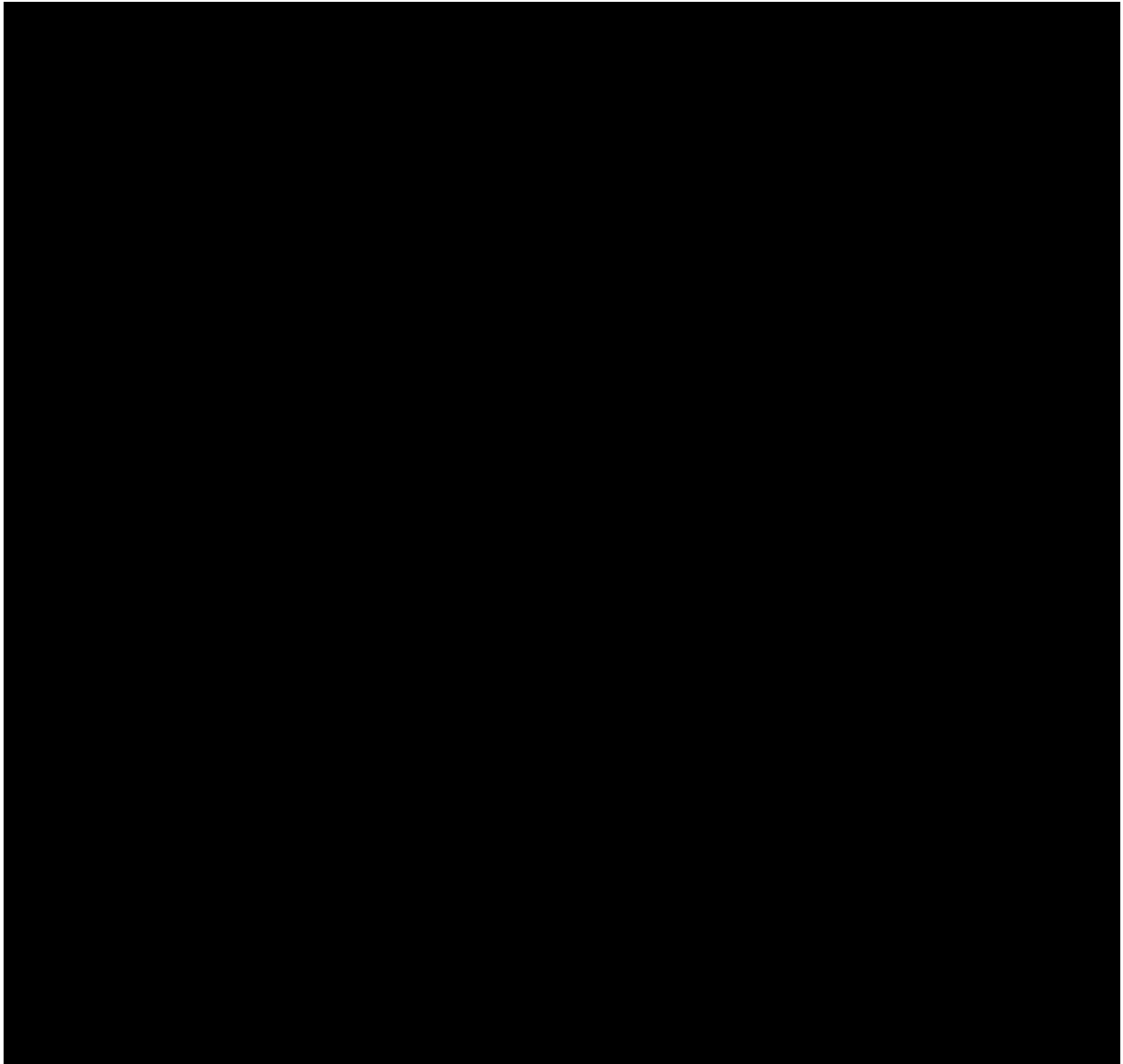
**Table 5.1 – List of relevant 2002 ARGO and ERF projects**

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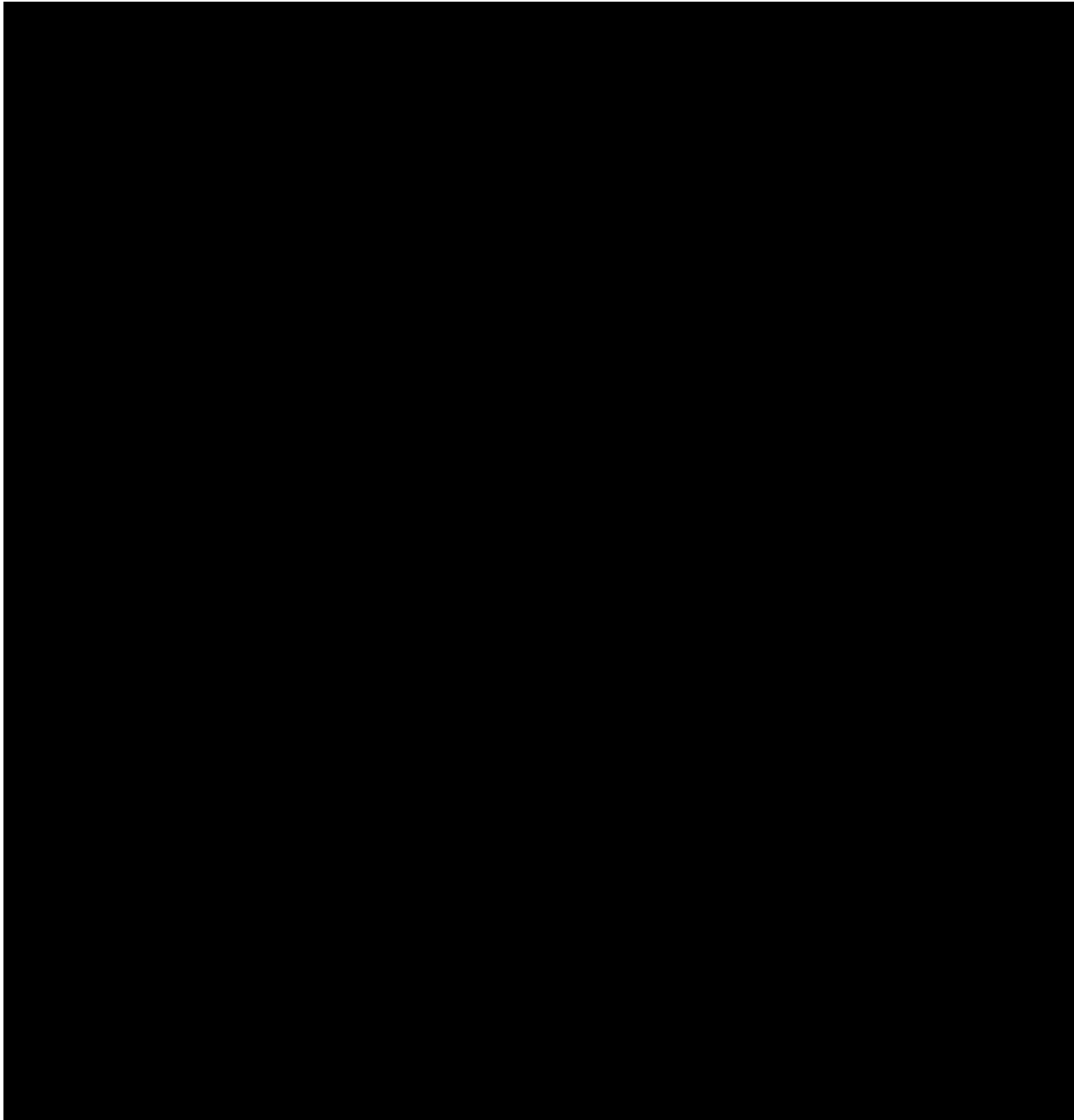
**Table 5.2 – List of relevant 2003 ARGO and ERF projects**

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**Table 5.3 – List of relevant 2004 ARGO and ERF projects**

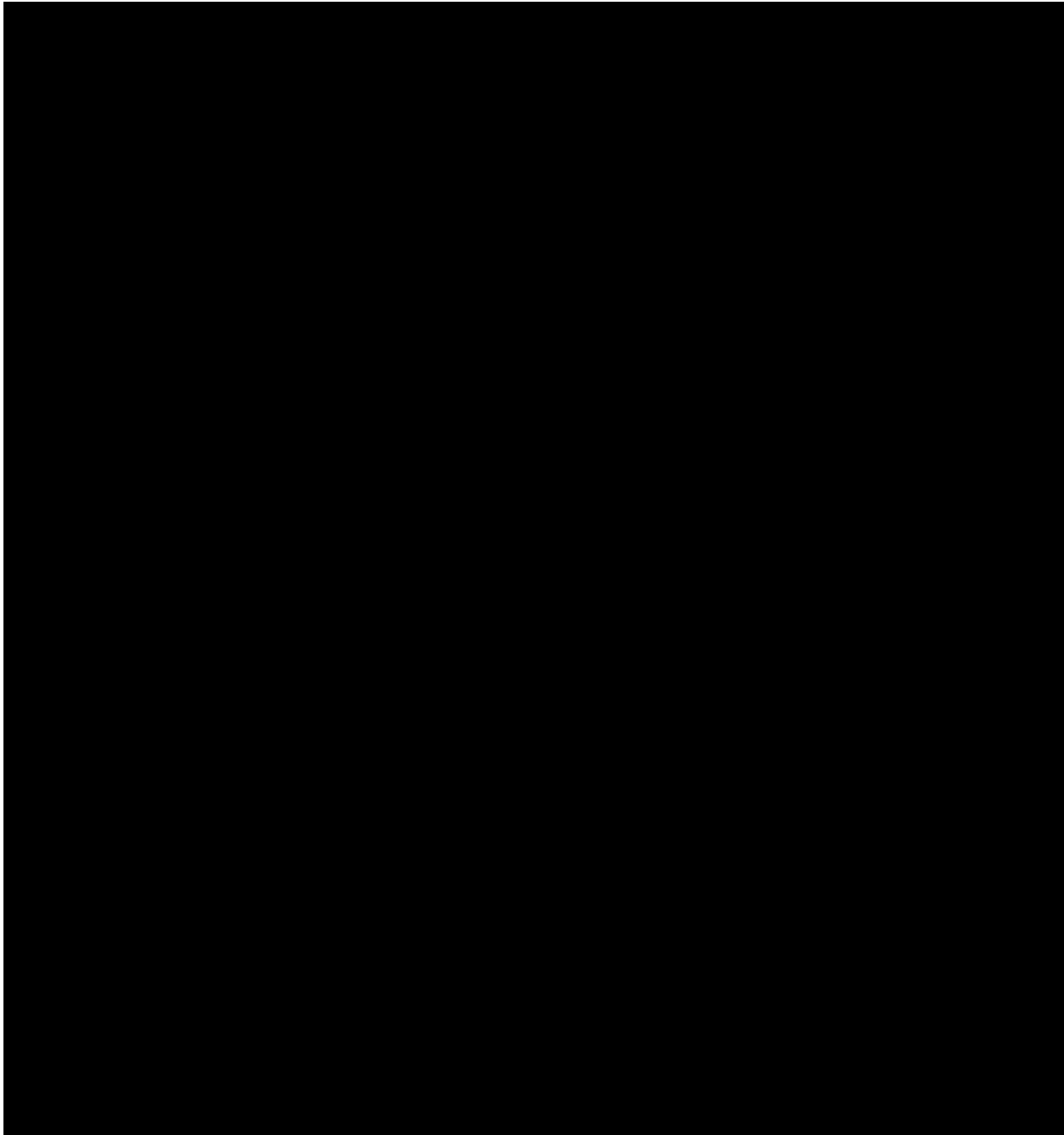


**Table 5.4 – List of relevant 2005 ARGO and ERF projects**





**Table 5.5 – List of relevant 2006 ARGO and ERF projects**



**Table 5.6: Estimated FTE's dedicated to transnational practical cooperation**

Source: feasibility study. During the case studies and interviews with key stakeholders from public and civil society sectors, interviewees were asked to estimate the total time allocated to practical cooperation on a yearly basis. Not all stakeholders were able to provide such an estimate. Table 5.6 below shows the estimated human resources in FTE by country or by relevant organisation, as well as the estimated total costs. For some countries, estimates were given by both public authorities and NGOs.

<b>Name of organisation</b>	<b>FTE involved in practical cooperation</b>
Asylum and Refugee Office (ES)	3
Forum Refugie (FR)	2
Terre d'asile (FR)	10
Ministry of immigration (FR)	4
OFPRA (FR)	6
Ministry of Justice (NL)	4
Vluchtelingenwerk (NL)	4
Office for Foreigners, Department for Refugee Procedures (PL)	1
Department of international cooperation/ Office for Foreigners (PL)	2
Asylum section, Migration Policy department, Administrative and Internal Affairs, Ministry of Interior (SL)	4
Asylum and Migration section (CZ)	2
Red Cross (AT)	12
<b>Total (7 Member States)</b>	<b>54 FTE</b>
<i>Average per Member States</i>	<i>7.7 FTE</i>
<i>Assumed total EU27</i>	<i>208 FTE</i>
<b>Assumed total cost<sup>55</sup></b>	<b>6,015,500 euro</b>

<sup>55</sup> Based on annual gross salary in Services sector, Structure of Earnings Survey 2002 (Eurostat)

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<sup>i</sup> This table concerns States that have an annual refugee resettlement programme target or quota in 2008. The figures are based on information reported by States according to allocations provided for in 2008. Owing to different fiscal / programme years among States and complexities associated with calculating yearly allocations, which in some cases are flexible, the figures in this table should be read as approximate.

<sup>ii</sup> This includes resettlement processing for individuals who are in their country of origin (non-refugee).

<sup>iii</sup> The majority of resettlement countries do not include family reunification within their quota allocation for UNHCR submissions. Individuals accepted under family reunion programmes include individuals in their country of origin.

<sup>iv</sup> Australia's refugee resettlement intake for 2008/2009 has been increased by 500 places.

<sup>v</sup> Citizens and/or permanent residents of Australia can propose / sponsor individuals under this category. Community organisations can also propose under this category.

<sup>vi</sup> Immediate family reunification is given priority under the Humanitarian Program (figures shown under "private sponsorship" column).

<sup>vii</sup> 7,300 – 7,500 places comprise the total Government assisted target, including in-country processing.

<sup>viii</sup> Government assisted resettlement.

<sup>ix</sup> Denmark is operating a flexible quota of 1500 places over 3 years. Within the 3-year period, more or fewer places can be used depending on actual needs.

<sup>x</sup> This figure is based on the rationale that each case comprises approximately 4 persons. The agreement signed between France and UNHCR refers to "une centaine de cas".

<sup>xi</sup> This figure refers to an ad-hoc submission made by UNHCR and NGO / church groups for Iraqi refugees.

<sup>xii</sup> 300 places of the 750 allocation could be used for non-UNHCR submitted cases.

<sup>xiii</sup> Up to 300 places could be used for individuals in their home country who are family members of refugees resettled in New Zealand. These places, if used, would be taken from the 750 places available for UNHCR submissions.

<sup>xiv</sup> Close family members of resettled refugees are reunited and settled as refugees in Norway over and above the resettlement quota.

<sup>xv</sup> This figure refers to the Mandate Programme which has no set limit but the figure is based on the average number resettled each year.

<sup>xvi</sup> Where States provided a target range (e.g. Iceland 25-30), the higher figure has been used in calculating the total.

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