COMMISSION OF THE EUROPEAN COMMUNITIES

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Accompanying document to the

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

establishing an European Asylum Support Office

SUMMARY OF THE IMPACT ASSESSMENT

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1. PROCEDURAL ISSUES AND CONSULTATION OF INTERESTED PARTIES

1.1. Calls to set up a European Asylum Support Office

The Commission adopted in June 2008 a Communication[1] "Policy Plan on Asylum – An Integrated Approach to Protection across the EU", which set out a road map for the second phase of completion of the Common European Asylum System (CEAS), and announced that it would put forward a legislative proposal for the creation of a **European Asylum Support office**.

At the end of September 2008, the European Council adopted the European Pact on Immigration and Asylum. Under this Pact[2], the European Council expressly agreed to *"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[3], the aim of which was to identify the options for shaping the second phase of the CEAS. Specific questions[4] 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[5], 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

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[1] 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.

[2] 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_REU NION=&dd_FT_DATE=&fc=ALLLANG&srm=25&md=100&ssf=

[3] Green Paper on the future Common European Asylum System - COM(2007) 301.

[4] See under para.3, questions 21 and 22.

[5] The 89 contributions received are available at: http://ec.europa.eu/justice_home/news/consulting_public/gp_asylum_system/news_contributions_asylum_s ystem_en.htm.

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[6].

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 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.

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[6] 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.

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 external dimension of the CEAS.

2.3. 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 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.

3.   OBJECTIVES

The objectives are set out in the table overleaf.

General objectives	Specific objectives	Operational objectives (outputs and effects)
To improve fair and more harmonised treatment of applications for international protection throughout the Union	To reduce differences in implementation of 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.
To improve solidarity and burden-sharing between Member States in the field of asylum	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 deal with asylum requests, including situations of mass influx of asylum seekers	
To better manage refugee flows to the EU through expanding the external dimension of the CEAS	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

Two sets of policy options are analysed in the impact assessment report.

The first set of policy options refers to tasks and missions to be entrusted to the support structure.

The second 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 above, are studied in the impact assessment report.

4.1.   Tasks and missions to be entrusted to the future asylum support structure

An individual analysis for tasks and missions to be entrusted to the future asylum support structure was carried out assessing available options. The following tasks were assessed as possible to be entrusted to the future support structure:

–	Exchange of best practices.

–	Support to monitoring and quality control.

–	Activities to improve the collection and quality of Country of origin Information / improve assessment of Country of origin Information.

–	Pool of asylum experts.

–	Intra-EU relocation.

–	Training and capacity building.

–	Activities linked to the external aspects of practical cooperation linked to CEAS: resettlement and regional protection programmes.

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

An individual analysis of eight options for institutional form of the support structure (among them, two options quickly discarded) was carried out:

–	Status quo (discarded).

–	Strengthening the European Commission's unit.

–	Creating a new network.

–	Creation of a new regulatory agency (non decision-making body).

–	Incorporation of the support structure into an existing regulatory agency:

–	into the Fondamental Rights agency (FRA),

–	into the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (FRONTEX),

–	into the future Agency for the operational management of SIS II, VIS and EURODAC and for the development and the management of other large-scale IT systems.

–	Creation of a Common EU Support Authority (decision-making regulatory agency - option discarded in the policy plan on asylum).

5. PREFERRED POLICY OPTION

The seven tasks described are assessed in the impact assessment report as possible to be entrusted to the future support structure and feasible by this future support structure.

This impact assessment report carried out an individual analysis for each institutional available option for the future support asylum structure. 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.

ASSESSMENT / OPTIONS	Achievement of objectives (functional and practical effectiveness) High (+++) to Low (- - -)	Time needed for implementation Short (+++) To Long (- - -)	Support needed from the Commission to the future (external) structure High (-- -) to Low (+++)	Legal feasibility High (+++) to Low(- - -)	Political feasibility High (+++) to Low (- - -)	Implication for EU budget (see detailed figures in financial annexes to the impact assessment report – Ex-ante financial analysis)			Overall Assessment Positive (+ to +++) Negative (- to - - -)
						Estimated start-up 2010	Minimum on-going costs 2011	Maximum ongoing costs 2011 onwards	
Option 1 Status Quo	*0*	*0*	*0*	*0*	*0*	*0*	*0*	*0*	*0*
Option 2 COM's Unit	+	++	*Non-applicable*	+++	- -	*320.000*	*2.959.017*	*5.732.809*	+
Option 3 Network	- -	-	- -	++	+	*345.000*	*3.970.395*	*8.067.187*	-
Option 4 EASO	+++	+	- -	+++	+++	*6.145.016*	*10.318.738*	*17.612 984*	++*(+)*
Option 5 FRA	-	-	- -	+	+	*600.000*	*6.654.449*	*12.104.600*	-
Option 6 FRONTEX	-	-	- -	+	-	*600.000*	*6.654.449*	*11.940.342*	- -
Option 7 IT Agency	- - -	- - -	- -	-	- -	*600.000*	*6.818.706*	*12.331.105*	- - -
Option 8 Authority	+++	+	- -	- - -	- - --	*Non-available*	*Non-available*	*Non-available*	- - -

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 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.