

## ROADMAP

Title of the initiative: **Communication on enhanced intra-EU solidarity**  
Type of initiative (CWP/Catalogue/Comitology): CWP  
Lead DG/contact person/details: DG HOME/B2  
Expected date of adoption of the initiative (month/year): 2<sup>nd</sup> semester 2011  
Date of modification: August 2010  
Version No:

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### Initial IA screening & planning of further work

#### A. Context and problem definition

##### **(i) What is the political context of the initiative? (ii) How does this initiative relate to past and possible future initiatives, and to other EU policies?**

There have been frequent calls for an increased role of the EU in supporting the Member States most affected by asylum flows and specifically those having difficulties in coping with such flows for geographic, demographic, economic or administrative reasons. The Commission, acknowledging that some Member States' asylum systems are under extreme pressure (and therefore possibly not guaranteeing the minimum standards on reception conditions and procedures required by the EU's asylum acquis), stated in its 2008 Policy Plan on Asylum<sup>1</sup> that "*the best way to ensure a high degree of solidarity is not to adopt a new overarching instrument, 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 mechanisms explicitly mentioned in the Policy Plan were:

- The possibility of joint processing in the EU of specific caseloads;
- The temporary suspension of transfers under the Dublin Regulation;
- The creation of asylum experts teams called upon to assist overburdened Member States; and
- The facilitation of intra-EU relocation, on a voluntary basis, of beneficiaries of international protection from one Member State to another.

Additionally, the Commission stated that it would look into possible ways to improve the impact of the EU financial solidarity, including the European Refugee Fund.

On 15 October 2008, the European Council adopted the Immigration and Asylum Pact<sup>2</sup>. In it, among other issues, a general commitment to build a Europe of asylum was backed by a number of concrete objectives. One of such objectives consisted in the following: "*For those Member States which are faced with specific and disproportionate pressures on their national asylum systems, due in particular to their geographical or demographic situation, solidarity shall also aim to promote, on a voluntary and coordinated basis, better reallocation of beneficiaries of international protection from such Member States to others, while ensuring that asylum systems are not abused. In accordance with those principles, the Commission, in consultation with the UNHCR where appropriate, will facilitate such voluntary and coordinated reallocation. Specific funding under existing EU financial instruments should be provided for this reallocation, in accordance with budgetary procedures*".

The Stockholm Programme adopted in December 2009 by the European Council includes the following: "*mechanisms for the voluntary and coordinated sharing of responsibility between the*

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<sup>1</sup> COM (2008) 360, adopted on 17 June 2008

<sup>2</sup> Council document 13440/08

*Member States should [...] be further analyzed and developed'*. The European Council therefore invited the Commission to examine the possibilities for: (1) developing the above mentioned mechanism for sharing responsibility between the Member States while assuring that asylum systems are not abused, and the principles of the CEAS are not undermined; (2) creating instruments and coordinating mechanisms which will enable Member States to support each other in building capacity, building on Member States own efforts to increase their capacity with regard to their national asylum systems; (3) using, in a more effective way, existing EU financial systems aiming at reinforcing internal solidarity; and (4) the EASO to evaluate and develop procedures that will facilitate the secondment of officials in order to help those Member States facing particular pressures of asylum seekers.

The European Parliament, in different resolutions, has regularly called for compulsory solidarity in the asylum field.

A number of initiatives are ongoing or have recently been completed; their results will influence the content of the future Communication: the European Parliament has recently conducted a study on asylum burden sharing in the EU; the Commission has launched a study on the feasibility of relocation as an instrument to support solidarity in the area of asylum, the results of which are expected during the summer 2010; and a pilot project is currently being implemented to relocate about 250 beneficiaries of international protection from Malta to 10 Member States. The legal base of the European Asylum Support Office (EASO) was adopted in May 2010 and contains provisions on relocation and asylum support expert teams in particular.

#### **What are the main problems identified?**

Asylum flows are not distributed in a balanced way across the EU. Some Member States are particularly affected by important asylum flows and do not have the capacity to cope with them. This leads to poor implementation of the EU asylum acquis and insufficient reception conditions for asylum-seekers and persons enjoying international protection. Lack of intra-EU solidarity can also exacerbate anti-EU feeling in certain Member States, which feel they are not supported by the other Member States.

#### **Who is affected?**

The Member States most affected are currently at the EU southern borders (Malta, Greece, Italy, Cyprus). However, other Member States were disproportionately affected by asylum flows (Germany, Austria, Sweden, Belgium). In a structured system of solidarity, all Member States could potentially be affected, either as *benefiting* from the solidarity measures or as *offering* them.

The persons applying for asylum are themselves affected by these particular and disproportionate pressures as they receive less care and support when the asylum systems of the Member States where they have applied for asylum are overburdened. In 2009, about 250,000 asylum applications were registered across the EU.

#### **(i) Is EU action justified on grounds of subsidiarity? (ii) Why can the objectives of the proposed action not be achieved sufficiently by Member States (necessity test)? (iii) As a result of this, can objectives be better achieved by action by the Community (test of EU Value Added)?**

Solutions to the challenge posed by disproportionate pressures on the asylum systems need to be defined and planned at EU level. This situation is particularly complex, poses concrete and serious problems and concerns at different degrees most Member States.

The Commission is responding to explicit requests made by the European Council and the European Parliament. The actions and policies shall therefore take into account, make use of and fully respect the existing acquis and the possibilities under different EU financial instruments. Should the need to amend existing EU legislation emerge, this can only be done at EU level.

It follows from the above that an EU common approach is needed to address the various aspects of this question. Such an approach must be based on high standards of protection and respect for human rights as well as on solidarity and sharing of responsibilities between Member

States. The EU has a sufficient legal basis, namely articles 78 and 80 of the Treaty on the Functioning of the European Union, to act.

## **B. Objectives of EU initiative**

### **What are the main policy objectives?**

The general objective is to create a coherent and comprehensive framework for better sharing responsibility for asylum-seekers and beneficiaries of international protection across the EU.

More specific objectives are to:

- ensure that national asylum systems can cope appropriately with the asylum flows they receive;
- ensure that asylum-seekers and beneficiaries of international protection are treated in accordance with high standards respecting international and EU law.
- more evenly distribute the burden represented by asylum flows across the Member States of the EU, by providing incentives for Member States to support each other in case of need.

### **Do the objectives imply developing EU policy in new areas or in areas of strategic importance?**

The asylum acquis is already rather comprehensive and includes measures to support solidarity. In the future, the existing measures should be complemented by new ones so that solidarity is reinforced at EU level. But no new policy areas are to be developed, as the different options will all remain within the area of asylum policy.

## **C. Options**

### **(i) What are the policy options? (ii) What legislative or 'soft law' instruments could be considered?**

### **(iii) Would any legislative initiatives go beyond routine up-date of existing legislation?**

1. To maintain the status quo
2. To use ad hoc, informal measures (like pilot projects, Council conclusions) to support the most affected Member States, with voluntary participation of Member States
3. To adapt the existing financial instruments (Solidarity Funds) to support more adequately the Member States whose asylum systems have difficulties to cope with asylum flows due to disproportionate burdens.
4. To fully use the possibilities offered by the creation of the European Asylum Support Office (EASO) to offer practical cooperation measures to the Member States needing support.
5. To propose an EU-wide system of relocation of beneficiaries of international protection, with a formal legal basis.
6. A combination of the above (2 to 5).

### **Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?**

As this initiative will address asylum-seekers and beneficiaries of international protection, it can have impacts across several policy areas, such as: fundamental rights, asylum, immigration, integration, return, visas, border controls, etc.

### **Explain how the options respect the proportionality principle**

The 6 options presented above respect the proportionality principle on an initial assessment, and the planned Impact Assessment will consider in more detail whether the benefits will justify costs.

## **D. Initial assessment of impacts**

**What are the significant impacts likely to result from each policy option (cf. list of impacts in the Impact Assessment Guidelines pages 32-37), even if these impacts would materialise only after subsequent Commission initiatives?**

1. To maintain status quo: The Member States facing disproportionate pressures will continue to have difficulties in receiving asylum-seekers and integrating beneficiaries of international protection. Sudden arrivals of large numbers of asylum-seekers will have a negative impact on the functioning of the asylum systems, with negative consequences for the persons concerned.
2. If asylum pressure decreases or the flows are more evenly distributed across the EU, ad hoc voluntary measures could be a sufficient solution if a crisis arrives. This option, however, relies on the voluntariness of the Member States to support each other.
3. The current financial instruments do already channel EU funds to the Member States receiving large number of asylum seekers and hosting many refugees. However, the Funds do not take into account the relative burden that these persons can represent for the Member States. An adaptation of the Funds to better reflect the relative burden represented by asylum flows would increase the support to Member States facing disproportionate pressures.
4. The EASO has as one of its tasks to support Member States facing disproportionate asylum pressures. The impact of the start of its operations can have a positive impact if its competences are used to the full extent possible to support overburdened Member States, for instance by setting up asylum expert teams and coordinating relocation efforts.
5. Financial support and practical cooperation measures are not enough in some cases. Some Member States have such large numbers of asylum-seekers and refugees that even if they get more financial support, there are consequences for society that can only be addressed by relocating the concerned persons elsewhere. This is why it could be necessary to foresee an EU-wide system for the relocation of beneficiaries of international protection, with pre-established criteria that would set the quotas of persons to be relocated in each Member State.
6. See assessment of options above.

**Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?**

Some of the options proposed could have impacts above 5M€ on the EU budget, in particular those related to the modification of the Solidarity Funds and the establishment of an EU-wide relocation mechanism

**Could the options have significant impacts on (i) simplification, (ii) administrative burden or on (iii) relations with third countries?**

No

## **E. Planning of further impact assessment work**

**When will the impact assessment work start?**

Towards the end of 2010, when results from the Relocation Malta pilot project and the study on the feasibility of relocation at EU level are available. It is currently planned to publish this Impact Assessment alongside the Communication. However it might be decided at a later stage to delay publication so it can accompany any follow-up legal proposals, particularly if policies have not been finally decided on by the time of the Communication.

**(i) What information and data are already available? (ii) Will this impact assessment build on already existing impact assessment work or evaluations carried out? (iii) What further information needs to be gathered? (iv) How will this be done (e.g. internally or by an**

**external contractor) and by when? (v) What type and level of analysis will be carried out (cf. principle of proportionate analysis)?**

Statistics on asylum flows, asylum applications and decisions, etc are readily available from Eurostat. Data on the costs of national asylum systems can be found in the study from the European Parliament on burden sharing, and more information will be available in the Commission study on relocation, particularly on Member States' attitudes towards relocation and other solidarity mechanisms and on the legal options. The impact assessments accompanying the proposals for amending the existing asylum acquis (Reception Conditions, Procedures, Qualification directives; Dublin Regulation; etc.) also contain information about how these instruments have been implemented and their impact, part of which could be used for the purposes of the Communication on intra-EU solidarity. A preliminary evaluation of the implementation of the relocation pilot project with Malta will equally feed into the impact assessment of the communication on enhanced intra-EU solidarity. The impact assessment will therefore build on existing information, although some new information will certainly be needed as well. The impact assessment will be carried out internally with all the available information.

**Which stakeholders & experts have been/will be consulted, how and at what stage?**

In the Commission study on relocation/solidarity, Member States, the European Parliament, UNHCR, NGOs and researchers are being consulted. Further consultations will be organised when the impact assessment is prepared.