

# EUROPEAN PARLIAMENT

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**REPORT**

on the proposal for a regulation of the European Parliament and of the Council  
establishing a European Asylum Support Office  
(COM(2009)0066 – C6-0071/2009 – 2009/0027(COD))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Jean Lambert

### ***Symbols for procedures***

- \* Consultation procedure  
*majority of the votes cast*
- \*\*I Cooperation procedure (first reading)  
*majority of the votes cast*
- \*\*II Cooperation procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\* Assent procedure  
*majority of Parliament's component Members except in cases  
covered by Articles 105, 107, 161 and 300 of the EC Treaty and  
Article 7 of the EU Treaty*
- \*\*\*I Codecision procedure (first reading)  
*majority of the votes cast*
- \*\*\*II Codecision procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\*III Codecision procedure (third reading)  
*majority of the votes cast, to approve the joint text*

(The type of procedure depends on the legal basis proposed by the Commission.)

### ***Amendments to a legislative text***

In amendments by Parliament, amended text is highlighted in ***bold italics***. In the case of amending acts, passages in an existing provision that the Commission has left unchanged, but that Parliament wishes to amend, are highlighted in **bold**. Any deletions that Parliament wishes to make in passages of this kind are indicated thus: [...]. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). Suggested corrections of this kind are subject to the agreement of the departments concerned.

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a regulation of the European Parliament and of the Council  
establishing a European Asylum Support Office  
(COM(2009)0066 – C6-0071/2009 – 2009/0027(COD))**

**(Codecision procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to the European Parliament and the Council (COM(2009)0066),
  - having regard to Article 251(2), Article 63(1) and (2) and Article 66 of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0071/2009),
  - having regard to Rule 51 of its Rules of Procedure,
  - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinion of the Committee on Budgets (A6-0279/2009),
1. Approves the Commission proposal as amended;
  2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
  3. Stresses that the provisions of Point 47 of the Interinstitutional Agreement of 17 May 2006 on budgetary discipline and sound financial management<sup>1</sup> (IIA) will apply for the setting-up of the European Asylum Support Office; stresses that, should the legislative authority decide in favour of the setting-up of such an agency, Parliament will enter into negotiations with the other arm of the budgetary authority with a view to coming to a timely agreement on the financing of the agency in line with the relevant provisions of the IIA;
  4. Instructs its President to forward its position to the Council and the Commission.

### **Amendment 1**

#### **Proposal for a regulation**

##### **Recital 5**

*Text proposed by the Commission*

*Amendment*

(5) Practical cooperation on asylum aims to increase the convergence of Member States' decision-making procedures on

(5) Practical cooperation on asylum aims to increase the convergence **and quality** of Member States' decision-making

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<sup>1</sup> OJ C 139, 14.6.2006, p. 1.

asylum matters within the European legislative framework. A substantial number of practical cooperation measures have already been undertaken in recent years, notably the adoption of a common approach to Country-of-Origin Information and the establishment of a common European Asylum Curriculum.

procedures on asylum matters within the European legislative framework. A substantial number of practical cooperation measures have already been undertaken in recent years, notably the adoption of a common approach to Country-of-Origin Information and the establishment of a common European Asylum Curriculum.

#### *Justification*

*The office should also work to improve the quality of decision making across all member states, not just its convergence.*

## **Amendment 2**

### **Proposal for a regulation Recital 6**

#### *Text proposed by the Commission*

(6) For Member States which are faced with specific and disproportionate pressures on their national asylum systems, due in particular to their geographical or demographic situation, the Office will support the implementation of solidarity mechanisms to promote, ***on a voluntary and coordinated basis***, a better reallocation of beneficiaries of international protection from such Member States to others, while ensuring that asylum systems are not abused.

#### *Amendment*

(6) For Member States which are faced with specific and disproportionate pressures on their national asylum systems, due in particular to their geographical or demographic situation, the Office will support the implementation of ***binding*** solidarity mechanisms to promote a better reallocation of beneficiaries of international protection from such Member States to others ***following non-discretionary, transparent and unequivocal rules***, while ensuring that asylum systems are not abused.

#### *Justification*

*Addition of "on a voluntary basis" will not in any way be of help in showing solidarity towards the Member States which are faced with specific and disproportionate pressures on their national asylum systems.*

### Amendment 3

#### Proposal for a regulation

##### Recital 9

###### *Text proposed by the Commission*

(9) The Office should act in close cooperation with the Office of the UN High Commissioner for Refugees (UNHCR) in order to benefit from *its* expertise and support. To this end, the role of UNHCR should be fully recognised and *that body* should be fully involved in the work of the Office. The Office should also work in close cooperation with the competent authorities of the Member States with responsibility for asylum, with national immigration and asylum services and other services, drawing on the capacity and expertise of these services, and with the Commission. The Member States should cooperate with the Office to ensure that it can fulfil its remit.

###### *Amendment*

(9) The Office should act in close cooperation with the Office of the UN High Commissioner for Refugees (UNHCR) **and non-governmental organisations** in order to benefit from *their* expertise and support. To this end, the role of UNHCR **and non-governmental organisations** should be fully recognised and *they* should be fully involved in the work of the Office. The Office should also work in close cooperation with the competent authorities of the Member States with responsibility for asylum, with national immigration and asylum services and other services, drawing on the capacity and expertise of these services, and with the Commission. The Member States should cooperate with the Office to ensure that it can fulfil its remit.

###### *Justification*

*Independent asylum experts, such as non-governmental organisations (NGOs), practitioners, judges and academics can provide essential input into the work of the EASO to ensure it accomplishes its goals towards creating a well-functioning Common European Asylum System.*

### Amendment 4

#### Proposal for a regulation

##### Recital 14

###### *Text proposed by the Commission*

(14) The Commission and the Member States should be represented on a Management Board in order to control effectively the working of the Office. The Management Board should, where

###### *Amendment*

(14) The Commission and the Member States should be represented on a Management Board in order to control effectively the working of the Office. The Management Board should, where

possible, consist of the operational heads of the national administrations responsible for asylum policy or their representatives. It should be given the necessary powers to establish the budget, verify its execution, adopt the appropriate financial rules, establish transparent working procedures for decision making by the Office and appoint the Executive Director. Given its expertise in the field of asylum, the UNHCR should be a non-voting member of the Board so that it is fully involved in the work of the Office.

possible, consist of the operational heads of the national administrations responsible for asylum policy or their representatives. It should be given the necessary powers to establish the budget, verify its execution, adopt the appropriate financial rules, establish transparent working procedures for decision making by the Office and appoint the Executive Director. Given its expertise in the field of asylum, the UNHCR should be a non-voting member of the Board so that it is fully involved in the work of the Office. ***Given the nature of the tasks of the Office and the role of the Executive Director, the European Parliament should be involved in the selection of the candidates proposed for this post.***

#### *Justification*

*A number of key responsibilities are attributed to the EASO Executive Director, including the ability to draft reports on the countries of origin. It is crucial that the person holding this post meets the highest standards in terms of professional competence and independence.*

*Strengthening Parliamentary involvement in the appointment procedure would ensure greater democratic accountability. This kind of involvement would not constitute a contradiction with the European Parliament's role in budgetary oversight as such a procedure is already in place in the FRA, another EU Agency.*

### **Amendment 5**

#### **Proposal for a regulation**

##### **Recital 16**

#### *Text proposed by the Commission*

(16) To ensure the Office's full autonomy and independence, it should have its own budget, most of which will be constituted by a contribution from the Community. The Community budgetary procedure should be applicable to the Community contribution and to any grant chargeable to the general budget of the European Union. The auditing of accounts should be undertaken by the European Court of Auditors.

#### *Amendment*

(16) To ensure the Office's full autonomy and independence, it should have its own budget, most of which will be constituted by a contribution from the Community. ***The financing of the Office should be subject to an agreement by the budgetary authority as set out in Point 47 of the Interinstitutional Agreement of 17 May 2006 on budgetary discipline and sound financial management<sup>1</sup> (IIA).*** The Community budgetary procedure should be



applicable to the Community contribution and to any grant chargeable to the general budget of the European Union. The auditing of accounts should be undertaken by the European Court of Auditors.

<sup>1</sup> *OJ C 139, 14.6.2006, p. 1.*

### *Justification*

*A reference to the need for an agreement between the two branches of the budgetary authority on the financing of the Office, as required by the IIA, should be inserted in the recital concerning budgetary issues.*

## **Amendment 6**

### **Proposal for a regulation Recital 17**

#### *Text proposed by the Commission*

(17) To accomplish its purpose, and to the extent required for the fulfilment of its tasks, the Office should cooperate with other community bodies, in particular with the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex), established by Regulation (EC) No 2007/2004, and the European Union Agency for Fundamental Rights (FRA), established by Regulation (EC) No 168/2007. It should also cooperate with the competent authorities of third countries, international organisations competent in matters covered by this Regulation and third countries in the framework of working arrangements concluded in accordance with the relevant provisions of the Treaty.

#### *Amendment*

(17) To accomplish its purpose, and to the extent required for the fulfilment of its tasks, the Office should cooperate with other community bodies, in particular with the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex), established by Regulation (EC) No 2007/2004, and the European Union Agency for Fundamental Rights (FRA), established by Regulation (EC) No 168/2007. It should also cooperate with the competent authorities of third countries, international organisations competent in matters covered by this Regulation and third countries in the framework of working arrangements concluded in accordance with the relevant provisions of the Treaty ***with a view to ensuring compliance with international and Community legal standards on asylum.***

### *Justification*

*The office's cooperation with third countries and international organisations should strictly*

*be for the purpose of ensuring that international and Community legal standards on asylum are upheld.*

## **Amendment 7**

### **Proposal for a regulation**

#### **Recital 18**

##### *Text proposed by the Commission*

(18) To accomplish its purpose, the Office should be open to participation by countries which have concluded agreements with the European Community by virtue of which they have adopted and apply Community legislation in the field covered by this Regulation (for example, Denmark, Norway, Iceland and Switzerland). It may also, in agreement with the Commission, conclude working arrangements *in accordance with the Treaty* with countries other than those which have concluded agreements with the European Community by virtue of which they have adopted and apply Community legislation. Under no circumstances, however, should it formulate any independent external policy.

##### *Amendment*

(18) To accomplish its purpose, the Office should be open to participation by countries which have concluded agreements with the European Community by virtue of which they have adopted and apply Community legislation in the field covered by this Regulation (for example, Denmark, Norway, Iceland and Switzerland). It may also, in agreement with the Commission, conclude working arrangements *for the purpose of ensuring compliance with international and Community legal standards on asylum* with countries other than those which have concluded agreements with the European Community by virtue of which they have adopted and apply Community legislation. Under no circumstances, however, should it formulate any independent external policy.

##### *Justification*

*This specifies the nature of any cooperation with third countries, which should be restricted to ensuring compliance with international and community legal standards on asylum*

## **Amendment 8**

### **Proposal for a regulation**

#### **Recital 18 a (new)**

##### *Text proposed by the Commission*

##### *Amendment*

***(18a) Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the***

*general budget of the European Communities<sup>1</sup> (Financial Regulation), and in particular Article 185 thereof should apply to the Office.*

<sup>1</sup>*OJ L 248, 16.9.2002, p. 1.*

#### *Justification*

*The Office is set up as a European Union decentralised agency and financed in accordance with the IIA. This should be reflected in the legal bases referred to in the Decision.*

### **Amendment 9**

#### **Proposal for a regulation**

##### **Article 2 – paragraph 5 a (new)**

*Text proposed by the Commission*

*Amendment*

***5a. The Office shall not have any direct or indirect powers in relation to the taking of decisions by Member State authorities on individual applications for international protection.***

### **Amendment 10**

#### **Proposal for a regulation**

##### **Article 4 – point a**

*Text proposed by the Commission*

*Amendment*

(a) the gathering of information on the countries of origin of asylum seekers and persons applying for international protection, making use of all relevant sources of information, including governmental and non-governmental organisations;

(a) the gathering of ***relevant, reliable, accurate and-up-to date*** information on the countries of origin of asylum seekers and persons applying for international protection ***in a transparent and impartial manner***, making use of all relevant sources of information, including governmental and non-governmental organisations, ***international organisations and EU institutions***;

#### *Justification*

*As information must be gathered from all relevant sources, drafting of reports should also be done on the basis of all relevant sources. These include not only reports by governments and*

NGOs, but also international organisations such as UNHCR and EU institutions, such as visits of EP Committees to third countries that may produce asylum seekers. Information should also be collected in a transparent and impartial manner, free from any political influence.

## Amendment 11

### Proposal for a regulation

#### Article 4 – point b

*Text proposed by the Commission*

*Amendment*

(b) the management and development of a portal for gathering information on countries of origin and its maintenance;

(b) the management and development of a portal for gathering information on countries of origin and its maintenance, **as well as the ensuring of its accessibility and transparency**;

#### *Justification*

*It should be ensured that the Common portal is not only accessible to Member States but also to those who are applying for asylum. In order to ensure equality of arms within the CEAS and given the importance of COI in status determination it is important that asylum seekers and their lawyers have access to the same information as the asylum authorities.*

## Amendment 12

### Proposal for a regulation

#### Article 4 – point d

*Text proposed by the Commission*

*Amendment*

(d) the analysis of country-of-origin information and the drafting of reports on countries of origin.

(d) the **impartial** analysis of country-of-origin information and the drafting of reports on countries of origin **in accordance with point (a), moving towards common assessment criteria**.

#### *Justification*

*As information must be gathered from all relevant sources, drafting of reports should also be done on the basis of all relevant sources. These include not only reports by governments and NGOs, but also international organisations such as UNHCR and EU institutions, such as visits of EP Committees to third countries that may produce asylum seekers. Information should also be collected in a transparent and impartial manner, free from any political influence.*

## Amendment 13

### Proposal for a regulation Article 5

#### *Text proposed by the Commission*

For Member States which are faced with specific and disproportionate pressures on their national asylum systems, due in particular to their geographical or demographic situation, the Office shall coordinate exchanges of information and all other activities related to the implementation of instruments and mechanisms for the intra-Community transfer, **on a voluntary basis**, of persons accorded international protection in the European Union.

#### *Amendment*

For Member States which are faced with specific and disproportionate pressures on their national asylum systems, due in particular to their geographical or demographic situation, the Office shall coordinate exchanges of information and all other activities related to the implementation of instruments and mechanisms for the intra-Community transfer of persons accorded international protection in the European Union.

#### *Justification*

*If reallocation will happen "on a voluntary basis" only, it will not in any way be of help in showing solidarity towards the Member States which are faced with specific and disproportionate pressures on their national asylum systems.*

## Amendment 14

### Proposal for a regulation Article 6 – paragraph 1

#### *Text proposed by the Commission*

1. The Office shall establish and develop training for members of all national administrations and courts, and national services responsible for asylum matters in the Member States.

#### *Amendment*

1. The Office shall establish and develop **in close cooperation with UNHCR and relevant NGOs** training for members of all national administrations and courts, and national services **or NGOs** responsible for asylum matters in the Member States.

#### *Justification*

*Both the UNHCR and some NGOs can provide high quality training as well as benefit from it. In some Member States, NGOs are formally used within the asylum process.*

## Amendment 15

### Proposal for a regulation

#### Article 6 – paragraph 2

*Text proposed by the Commission*

2. The Office shall manage and develop a European asylum curriculum.

*Amendment*

2. The Office shall manage and develop a European asylum curriculum ***which shall, as a minimum, provide for training on international refugee and human rights law and standards and the EU asylum acquis.***

*Justification*

*The EAC must include profound training in international refugee law and human rights law and standards as it is the basis for the EU asylum acquis.*

## Amendment 16

### Proposal for a regulation

#### Article 6 – paragraph 4 – introductory part

*Text proposed by the Commission*

4. Specific training activities shall include:

*Amendment*

4. Specific ***or thematic*** training activities shall include:

*Justification*

*General training is included in the European Asylum curriculum. The list included above is a mix of specific and thematic training.*

## Amendment 17

### Proposal for a regulation

#### Article 6 – paragraph 6

*Text proposed by the Commission*

6. The Office shall provide experts who are part of the Asylum Intervention Pool referred to in ***Article 15(3)*** with specialist training relevant to their tasks and powers and shall conduct regular exercises with

*Amendment*

6. The Office shall provide experts who are part of the Asylum Intervention Pool referred to in ***Article 15*** with specialist training relevant to their tasks and powers and shall conduct regular exercises with

those experts in accordance with the specialist training and exercise schedule referred to in its annual work programme.

those experts in accordance with the specialist training and exercise schedule referred to in its annual work programme.

*Justification*

*Article 15 (3) does not exist.*

**Amendment 18**

**Proposal for a regulation  
Article 6 – paragraph 7**

*Text proposed by the Commission*

7. The Office may organise training activities in cooperation with Member States in their territory.

*Amendment*

7. The Office may organise training activities in cooperation with Member States **and NGOs** in their territory.

*Justification*

*See justification amendment 16.*

**Amendment 19**

**Proposal for a regulation  
Article 7 – paragraph 2**

*Text proposed by the Commission*

The Office shall coordinate exchanges of information and all other action taken on the resettlement of refugees within the European Union.

*Amendment*

The Office shall coordinate exchanges of information and all other action taken on the resettlement of refugees within the European Union, **taking into consideration the principles of solidarity and of burden sharing.**

*Justification*

*It is important to emphasize the principle of solidarity and of burden sharing in the context of exchanges of information and the action related to the resettlement of refugees.*

## Amendment 20

### Proposal for a regulation Article 7 – paragraph 3

#### *Text proposed by the Commission*

Pursuant to its terms of reference, and in accordance with Article 47, the Office may **establish forms of cooperation with third countries on technical matters, in particular with a view to** capacity-building in third countries within the framework of regional protection programmes.

#### *Amendment*

Pursuant to its terms of reference, and in accordance with Article 47, the Office may **promote** capacity-building in third countries within the framework of regional protection programmes.

#### *Justification*

*This clarifies the scope of cooperation with third countries.*

## Amendment 21

### Proposal for a regulation Article 9 – paragraph 1

#### *Text proposed by the Commission*

1. To be able to assess the needs of Member States under particular pressure, the Office shall gather, on the basis notably of information provided by Member States **and the** UNHCR, all relevant information for the identification, preparation and formulation of emergency measures to cope with such pressure, in particular under Regulation (.../...) of the European Parliament and of the Council establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person.

#### *Amendment*

1. To be able to assess the needs of Member States under particular pressure, the Office shall gather, on the basis notably of information provided by Member States, UNHCR **and other relevant organisations**, all relevant information for the identification, preparation and formulation of emergency measures to cope with such pressure, in particular under Regulation (.../...) of the European Parliament and of the Council establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person.

#### *Justification*

*Other relevant organisations, such as ICRC may also be able to provide useful and complementary information regarding the needs of member states.*



## Amendment 22

### Proposal for a regulation Article 9 – paragraph 2

*Text proposed by the Commission*

2. The Office shall identify and analyse systematically, on the basis of information provided by Member States, the structures and staff available, especially for translation and interpretation, and the asylum capacity in the Member States with a view to fostering quick and reliable mutual information to the various national authorities responsible for asylum.

*Amendment*

2. The Office shall identify and analyse systematically, on the basis of information provided by Member States, the structures and staff available, especially for translation and interpretation **and assistance with the initial gathering of information to support the Member States in their determination of status**, and the asylum capacity in the Member States with a view to fostering quick and reliable mutual information to the various national authorities responsible for asylum.

*Justification*

*Not only the staff available for translation and interpretation, but also the number of staff available for helping to handle initial interviews is important as this will inevitably have repercussions for the quality of decision-making.*

## Amendment 23

### Proposal for a regulation Article 10 – point a

*Text proposed by the Commission*

(a) setting up an early warning system to notify the Member States of any influx of applicants for international protection;

*Amendment*

(a) setting up an early warning system to notify the Member States **and the Commission** of any influx of applicants for international protection;

*Justification*

*Such an early warning system should make reference to a relevant Community instrument that deals with mass influx of displaced persons that can include applicants for international protection but not deal exclusively with that instrument*

## Amendment 24

### Proposal for a regulation Article 10 – point a a (new)

*Text proposed by the Commission*

*Amendment*

***(aa) on a proposal from the Commission, implementing a binding solidarity mechanism to reallocate beneficiaries of international protection from Member States with specific and disproportionate pressures on their national asylum systems, in consultation with the UNHCR, following non-discretionary, transparent and unequivocal rules;***

*Justification*

*A scheme to reallocate beneficiaries of international protection should also be listed in this article.*

## Amendment 25

### Proposal for a regulation Article 12 – paragraph 1

*Text proposed by the Commission*

*Amendment*

1. The Office shall draw up an annual report on the situation of asylum in the European Union. As part of this report, the Office shall evaluate the results of activities carried out under this Regulation and make a comprehensive comparative analysis of them with the aim of promoting a better understanding of good practice by the Member States and improving the quality, consistency and effectiveness of the Common European Asylum System.

1. The Office shall draw up an annual report on the situation of asylum in the European Union. As part of this report, the Office shall evaluate the results of activities carried out under this Regulation and make a comprehensive comparative analysis of them with the aim of promoting a better understanding of good practice by the Member States and improving the quality, consistency and effectiveness of the Common European Asylum System.  
***The report shall be presented to the European Parliament and the Commission.***

*Justification*

*It is important that the report is presented to the relevant bodies to maximise the use of the information provided therein and provide accountability to other EU institutions.*

**Amendment 26**

**Proposal for a regulation**

**Article 12 – paragraph 2**

*Text proposed by the Commission*

2. The Office may draft, at the request of the Commission and after consulting the Executive Committee referred to in Article 30, acting in close consultation with its working groups and the Commission, technical documents on the implementation of Community asylum instruments, including guidelines and operating manuals.

*Amendment*

2. The Office may draft, at the request of the Commission and after consulting the Executive Committee referred to in Article 30, acting in close consultation with its working groups and the Commission, technical documents on the implementation of Community asylum instruments, including guidelines and operating manuals. ***UNHCR should be a leading participant in the development of EU guidelines to ensure consistency with international standards. For topics where UNHCR guidelines already exist, these should serve as the starting point for practical cooperation to narrow the gaps in practice.***

*Justification*

*The UNHCR has already developed numerous guidelines on different elements of refugee law and practice and has expertise in this area which should be made use of to ensure consistency with international standards and be used as a base to narrow gaps in practice.*

**Amendment 27**

**Proposal for a regulation**

**Article 12 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***2a. At the request of the European Parliament, the Office may draft reports on specific aspects of the implementation of the EU asylum acquis relating to***

*international protection.*

*Justification*

*The European Parliament has an interest in the implementation of legislation it has been involved in developing.*

**Amendment 28**

**Proposal for a regulation  
Article 16 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. Where Member States are unable to provide the expertise deemed to be essential for its operation, the Office may take the necessary measures to source such expertise from relevant experts and organisations, drawing on the expertise of the Consultative Forum.***

*Justification*

*In order for the Office to function effectively it must have the possibility to source outside expertise where necessary, particularly in cases where member states are unable to deliver.*

**Amendment 29**

**Proposal for a regulation  
Article 28 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

*Amendment*

1. The Office's Executive Director shall be appointed for a period of five years by the Management Board ***from a list of candidates proposed by the Commission. Before appointment, the candidate selected by the Management Board shall be invited to make a statement before the competent committee or committees of the European Parliament and answer questions put by its or their members.***

1. The Office's Executive Director shall be appointed for a period of five years by the Management Board ***in accordance with the cooperation procedure provided for in this Article. The Director shall be appointed on the basis of his or her personal merits, experience in the field of asylum and administrative and management skills. The cooperation procedure shall be as follows:***

***a) on the basis of a list drawn up by the Commission after a call for candidates***

*and a transparent selection procedure, applicants shall be asked before an appointment is made to address the Council and the competent committee of the European Parliament and to reply to questions;*

*b) the European Parliament and the Council should then give their opinions and state their orders of preference;*

*c) the Management Board shall appoint the Director taking those opinions into account.*

#### *Justification*

*The EASO Executive Director will be responsible for drafting reports on the countries of origin. It is crucial that the person holding this post meets the highest standards in terms of professional competence and independence. Strengthening Parliamentary involvement in the appointment procedure would ensure greater democratic accountability. This kind of involvement would not constitute a contradiction with the European Parliament's role in budgetary oversight as such a procedure is already in place in the FRA, another EU Agency.*

#### **Amendment 30**

##### **Proposal for a regulation Article 28 – paragraph 3**

###### *Text proposed by the Commission*

3. The Management Board shall inform the European Parliament of its intention to extend the Executive Director's term of office. In the month prior to such extension of his/her term the Executive Director *may* be invited to make a statement before the competent committee or committees of the European Parliament and answer questions put by its or their members.

###### *Amendment*

3. The Management Board shall inform the European Parliament of its intention to extend the Executive Director's term of office. In the month prior to such extension of his/her term the Executive Director *shall* be invited to make a statement before the competent committee or committees of the European Parliament and answer questions put by its or their members.

#### *Justification*

*This brings the role of the European Parliament in the possible extension of the Director's term into line with the terms for the initial appointment.*

#### **Amendment 31**

**Proposal for a regulation**  
**Article 32 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. Local authorities have an important role and expertise in the field of asylum policy and shall be included in the Consultative Forum.***

**Amendment 32**

**Proposal for a regulation**  
**Article 40 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. The Office shall be a body of the Community. It shall have legal personality.

1. The Office shall be a body of the Community ***established in accordance with Article 185 of the Financial Regulation.*** It shall have legal personality.

*Justification*

*A reference to the basic rule of the financial regulation concerning the establishment of decentralised agencies under which the Office is to be established should be added in the article concerning its legal definition and status.*

**Amendment 33**

**Proposal for a regulation**  
**Article 42 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents shall apply to documents held by the Office.

1. ***The Office shall develop good administrative practices in order to ensure the highest possible level of transparency concerning its activities.*** Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents shall apply to documents held by the Office.

### *Justification*

*Recital (13) and Article 2 (4) of the Commission proposal establishes that the Office should carry out its tasks in conditions which enable it to serve as a reference point by virtue of, inter alia, 'the transparency of its procedures and operating methods'. It is vital that the Office operates in a transparent manner by ensuring relevant documents are available to a wider public. In this regard, Article 17 of the Regulation establishing the FRA provides a useful model.*

### **Amendment 34**

#### **Proposal for a regulation Article 47 – paragraph 2**

##### *Text proposed by the Commission*

2. In matters connected with its activities and to the extent required for the fulfilment of its tasks the Office shall, in agreement with the Commission, facilitate operational cooperation between Member States and third countries in the framework of the European Union's external relations policy, and may also cooperate with the authorities of third countries competent in technical aspects of the areas covered by this Regulation, within the framework of working arrangements concluded with those authorities, in accordance with the relevant provisions of the Treaty.

##### *Amendment*

2. In matters connected with its activities and to the extent required for the fulfilment of its tasks the Office shall, in agreement with the Commission ***and within the limits of its mandate***, facilitate operational cooperation between Member States and third countries in the framework of the European Union's external relations policy, and may also cooperate with the authorities of third countries competent in technical aspects of the areas covered by this Regulation, within the framework of working arrangements concluded with those authorities, in accordance with the relevant provisions of the Treaty.

## EXPLANATORY STATEMENT

The aim of the creation of the European Asylum Support Office (EASO) is to provide the necessary expert assistance to help in the delivery of a consistent and high-quality Common European Asylum Policy. Some progress has been made through ad-hoc co-operation between Member States, but this does not provide continuity of approach, on-going support nor the development and delivery of the solidarity mechanisms that have been identified as essential in supporting Member States facing particular pressures. Your rapporteur is convinced of the added-value to Member States of the introduction of this new Support Office, not least in the development of mutual confidence and sharing of responsibility.

The need for such an Office was identified in the 2004 Hague Programme: it foresaw that it would deal with all forms of cooperation between Member States relating to the Common European Asylum System. The commitment has been reiterated on a number of occasions. In September 2008, the European Council adopted the European Pact on Immigration and Asylum and 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."

The European Parliament has itself identified the need for a greater consistency in approach to the implementation of the asylum acquis<sup>1</sup>, not least in regard to the quality of the delivery. Rates of acceptance of claims from the same country of origin vary widely between Member States, raising questions about the quality and interpretation of information on countries of origin of claimants; the backlog of claims may also indicate difficulties; some Member States, especially at the Southern borders experience problems due to significant numbers of people arriving at certain times and it can be difficult to identify those with protection needs; the quality of reception conditions certainly varies, not least in the use of closed centres. The above are just some of the issues raised by Parliament.

As a result, Parliament has also supported the creation of a European Asylum Support Office<sup>2</sup>. In proposing amendments to the Commission proposal, your rapporteur has taken into account Parliament's demands. These include the need for transparency and accountability<sup>3</sup>, offering support on resettlement and the internal, voluntary transfer of those with identified protection needs, providing expert teams to support Member States facing particular stress, training to high common standards, and the pooling of country-of-origin information.

Generally, your rapporteur considers that the Commission proposal is sound. It sets out the purpose of the office; its specific tasks, relating to practical cooperation, support for Member States under particular pressure, asylum support teams and the collection and publication of information: There are also technical sections on the organisation, funding and staffing of the EASO and a section on general provisions which includes relations with third countries and

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<sup>1</sup> , Catania, Lambert, Roure,Pirker,Kudrycka

<sup>2</sup> , Catania, Lambert, ,Pirker,Kudrycka

<sup>3</sup> Pirker report



other Community bodies such as FRONTEX and the FRA and international bodies.

Your rapporteur considers that the necessary budgetary changes to the European Refugee Fund will provide adequate funding for the new agency in its initial phases drawing funding from the part of the Fund allocated for cooperation between Member States, thus substituting this more ad-hoc cooperation for a stable institution specifically designed to meet the need for ongoing support. The reallocation of funding does not affect national allocations. Your rapporteur also welcomes the specific provision in the proposal for the financial support to the UNHCR in light of its proposed role within the EASO.

There are a small number of areas where your rapporteur proposes amendments. Firstly, to make explicit the need for the EASO to work within the scope of international instruments on protection and human rights as well as the EU acquis. Secondly, in the area of cooperation with third countries to be more explicit as to what this entails to ensure that we are developing their own capacity to deal fairly with asylum seekers and refugees. It is also important to ensure that country-of-origin information is drawn from those with relevant expertise and that it is transparent and impartial. The role of expert NGOs could also be expanded, with reference to the Management Board and possible input to expert teams. As the EASO is an agency, the role of the European Parliament is also a relevant issue. Your rapporteur is aware of the ongoing general discussion on this topic and the potential tension with the EP's role as having budgetary oversight, nevertheless, she feels some strengthening of our role is possible.

As to the timetable for this proposal, Parliament is aware of the need for rapid progress, not least as having the EASO in existence could assist progress in other areas of the European Common Asylum Policy currently under review. Your rapporteur trusts that an early agreement on an effective proposal can be found which could allow the EASO to be operational by the end of 2010.

23.4.2009

## **OPINION OF THE COMMITTEE ON BUDGETS**

for the Committee on Civil Liberties, Justice and Home Affairs

on the proposal for a regulation of the European Parliament and of the Council establishing a European Asylum Support Office  
(COM(2009)0066 – C6-0071/2009 – 2009/0027(COD))

Rapporteur: Jutta Haug

### **SHORT JUSTIFICATION**

The need for the creation of a European Asylum Support Office (EASO) was identified already in 2004 in the Hague Programme. In September 2008, the European Council agreed on its establishment in 2009 within the framework of the European Pact on Immigration and Asylum. The European Parliament has repeatedly supported its creation.

Although supporting the political goals aimed at by the creation of the Office, the rapporteur must however raise some questions from the budgetary point of view.

1. It is estimated by the Commission that the Office will need a financial envelope of around EUR 40,250 million for the period of 2010/2013. As it is foreseen that the Office will take over some of the missions until now entrusted to the ERF, the Commission estimates that around EUR 24 million will be made available via the redeployment of funds currently envisaged for the ERF. Some other missions of the Office are currently funded through the EMN (European Migration Network) for a total of 7.3 million. As such, the new funding really required would amount to EUR 8.86 million for the whole period, which does not seem excessive if one considers that for the time being the Commission estimates that overall margin for heading 3A for that period reaches some EUR 176 millions. Thus, the proposal seems compatible with the current financial framework even though the Commission has not yet foreseen the EASO in the current Financial Programming document presented to the European Parliament in January 2009.

The rapporteur would further recall that the creation of decentralised agencies amounts to a way of using operational funds to cover administrative expenses. The issue of financing a part of the expenditure of the agencies via Heading 5 should be tackled. The limited margin available in heading 3a reinforces the argument for doing so as other priorities by the

European Parliament might not be able to be financed. The rapporteur hopes that the inter-institutional working group on regulatory agencies will allow for some further discussion in this area.

2. The rapporteur considers that the Impact Assessment (IA) provided by the Commission is substantially flawed. In fact its analysis shows, amongst other weaknesses, that the decisive criteria leading to the conclusion that the option for a "decentralised agency", was the best one was its "political feasibility". To rest the conclusion on such criteria amounts to saying that "it is better to create an agency because the legislator wants to create an agency"... Without prejudice for the political discretion of the legislative authority, to which the political decision is finally committed, it is not acceptable that an IA rests on such an assumption. As article 5 of the interinstitutional common approach to the IA states "an IA is supposed to provide technical and analytical data as a basis for the political decision, not to anticipate the political will of the deciders to justify their decision".

This is not the first time the Commission presents an inconsistent IA or cost-benefit- analysis (CBA). The rapporteur considers that the EP should analyse the possibility that, in future, the Commission should send its IA/CBA concerning the creation of a new agency to the Court of Auditors, so that they may give an opinion on the consistency of the impact assessments in order to avoid this kind of situation.

3. The rapporteur would also like to stress that, as a result of the political pressures of the EP, the Commission proposal includes a specific article stating that arrangements for accommodation of the Office, the facilities to be made available and the rules applicable to the management and staff of the Office, as well as their families, shall be laid down in a headquarters agreement between the host state and the Office. It should be stressed that the host Member State must provide the best conditions possible to ensure the good functioning of the Office, including transport and schooling.

In order to avoid additional costs with the transfer of the headquarters, as has happened in the case of other agencies like EMSA, the rapporteur would like to ensure that the EASO will only start operating once installed - even if in provisional conditions - in the place where its seat has been agreed by the Member States.

## **AMENDMENTS**

The Committee on Budgets calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to incorporate the following amendments in its report:

### **Amendment 1**

#### **Draft legislative resolution Paragraph 2 a (new)**

*Draft legislative resolution*

*Amendment*

***2a. Considers that the impact assessment presented by the Commission to justify its proposal is seriously inconsistent; asks the Commission to revise its impact assessment before the conclusion of the legislative procedure; intends to look into the possibility that, in future, impact assessments concerning the creation of new agencies be sent to the Court of Auditors, which should deliver an opinion on its consistency prior to the presentation of the legislative proposal;***

## **Amendment 2**

**Draft legislative resolution  
Paragraph 2 b (new)**

*Draft legislative resolution*

*Amendment*

***2b. Stresses that the provisions of Point 47 of the IIA of 17 May 2006 will apply for the setting-up of the European Asylum Support Office; stresses that, should the legislative authority decide in favour of the setting-up of such an agency, Parliament will enter into negotiations with the other arm of the budgetary authority with a view to coming to a timely agreement on the financing of this agency in line with the relevant provisions of the IIA;***

## **Amendment 3**

**Proposal for a regulation  
Recital 16**

*Text proposed by the Commission*

*Amendment*

(16) To ensure the Office's full autonomy and independence, it should have its own

(16) To ensure the Office's full autonomy and independence, it should have its own

budget, most of which will be constituted by a contribution from the Community. The Community budgetary procedure should be applicable to the Community contribution and to any grant chargeable to the general budget of the European Union. The auditing of accounts should be undertaken by the European Court of Auditors.

budget, most of which will be constituted by a contribution from the Community. ***The financing of the Office is subject to an agreement by the budgetary authority as set out in Point 47 of the Interinstitutional Agreement (IIA) of 17 May 2006 on budgetary discipline and sound financial management<sup>1</sup>.*** The Community budgetary procedure should be applicable to the Community contribution and to any grant chargeable to the general budget of the European Union. The auditing of accounts should be undertaken by the European Court of Auditors.

<sup>1</sup> *OJ C 139, 14.6.2006, p. 1.*

#### *Justification*

*A reference to the need for an agreement between the two branches of the budgetary authority on the financing of the Office, as required by the IIA, should be inserted in the recital concerning budgetary issues.*

#### **Amendment 4**

##### **Proposal for a regulation Recital 18 a (new)**

*Text proposed by the Commission*

*Amendment*

***(18a) Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities<sup>1</sup> (Financial Regulation), and in particular Article 185 thereof should apply to the Office,***

<sup>1</sup>*OJ L 248, 16.9.2002, p. 1.*

#### *Justification*

*The Office is set up as a European Union decentralised agency and financed in accordance with the IIA. This should be reflected in the legal bases referred to in the Decision.*

## Amendment 5

### Proposal for a regulation Article 40 - paragraph 1

*Text proposed by the Commission*

1. The Office shall be a body of the Community. It shall have legal personality.

*Amendment*

1. The Office shall be a body of the Community ***established in accordance with Article 185 of the Financial Regulation***. It shall have legal personality.

*Justification*

*A reference to the basic rule of the financial regulation concerning the establishment of decentralised agencies under which the Office is to be established should be added in the article concerning its legal definition and status.*

## Amendment 6

### Proposal for a regulation Article 51 - paragraph 1

*Text proposed by the Commission*

The Office shall become operational within one year of the entry into force of this Regulation.

*Amendment*

The Office shall become operational within one year of the entry into force of this Regulation, ***provided that the Member States have agreed on its seat sufficiently in advance to allow its basic infrastructure to become operational at that seat.***

*Justification*

*This addition is intended to prevent situations - like it happened with EMSA - in which an agency is provisionally established in one place different from the one of its definitive seat and has to face additional substantial costs for its later transfer.*

## Amendment 7

### Proposal for a regulation Article 45 - paragraph 1

*Text proposed by the Commission*

1. No later than three years after the date

*Amendment*

1. No later than three years after the date

referred to in Article 51, the Office shall commission an independent external evaluation of its achievements on the basis of terms of reference issued by the Management Board in agreement with the Commission. This evaluation will cover the Office's impact on practical cooperation on asylum and on the Common European Asylum System. It shall, in particular, address the possible need to modify or extend the tasks of the Office, including the financial implications of any ***such modification or extension***. This evaluation shall also look at whether the management structure is appropriate for carrying out the Office's tasks. The evaluation will take into account the views of stakeholders, at both Community and national levels.

referred to in Article 51, the Office shall commission an independent external evaluation of its achievements on the basis of terms of reference issued by the Management Board in agreement with the Commission. This evaluation will cover the Office's impact on practical cooperation on asylum and on the Common European Asylum System. It shall, in particular, address the possible need to modify or extend the tasks of the Office ***or to close down its activities in the event that its role in the implementation of the common asylum policy has become superfluous, of these actions***. This evaluation shall also look at whether the management structure is appropriate for carrying out the Office's tasks. The evaluation will take into account the views of stakeholders, at both Community and national levels.

#### *Justification*

*The possibility of closing down the Office, as in the case of all agencies, should also be considered.*

## PROCEDURE

<b>Title</b>	Establishment of a European Asylum Support Office
<b>References</b>	COM(2009)0066 – C6-0071/2009 – 2009/0027(COD)
<b>Committee responsible</b>	LIBE
<b>Opinion by</b> Date announced in plenary	BUDG 9.3.2009
<b>Rapporteur</b> Date appointed	Jutta Haug 20.9.2004
<b>Discussed in committee</b>	31.3.2009                      22.4.2009
<b>Date adopted</b>	22.4.2009
<b>Result of final vote</b>	+:                      37 -:                      0 0:                      0
<b>Members present for the final vote</b>	Reimer Böge, Costas Botopoulos, Paulo Casaca, Vasilica Viorica Dăncilă, Brigitte Douay, Göran Färm, Szabolcs Fazakas, Vicente Miguel Garcés Ramón, Salvador Garriga Polledo, Ingeborg Gräßle, Nathalie Griesbeck, Catherine Guy-Quint, Jutta Haug, Ville Itälä, Anne E. Jensen, Alain Lamassoure, Janusz Lewandowski, Liene Liepiņa, Vladimír Maňka, Mario Mauro, Jan Mulder, Gianni Pittella, Margaritis Schinas, Esko Seppänen, László Surján, Gary Titley, Helga Trüpel
<b>Substitute(s) present for the final vote</b>	Bárbara Dührkop Dührkop, Michael Gahler, Marusya Ivanova Lyubcheva, José Javier Pomés Ruiz, Paul Rübig, Peter Šťastný
<b>Substitute(s) under Rule 178(2) present for the final vote</b>	Erna Hennicot-Schoepges, Astrid Lulling, Manolis Mavrommatis, Jean Spautz



## PROCEDURE

<b>Title</b>	Establishment of a European Asylum Support Office		
<b>References</b>	COM(2009)0066 – C6-0071/2009 – 2009/0027(COD)		
<b>Date submitted to Parliament</b>	18.2.2009		
<b>Committee responsible</b> Date announced in plenary	LIBE 9.3.2009		
<b>Committee(s) asked for opinion(s)</b> Date announced in plenary	AFET 9.3.2009	DEVE 9.3.2009	BUDG 9.3.2009
<b>Not delivering opinions</b> Date of decision	AFET 17.3.2009	DEVE 19.3.2009	
<b>Rapporteur(s)</b> Date appointed	Jean Lambert 21.1.2009		
<b>Date adopted</b>	27.4.2009		
<b>Result of final vote</b>	+: -: 0:	33 1 0	
<b>Members present for the final vote</b>	Emine Bozkurt, Mihael Brejc, Michael Cashman, Carlos Coelho, Panayiotis Demetriou, Gérard Deprez, Bárbara Dührkop Dührkop, Claudio Fava, Armando França, Kinga Gál, Roland Gewalt, Jeanine Hennis-Plasschaert, Roselyne Lefrançois, Claude Moraes, Vladimir Urutchev		
<b>Substitute(s) present for the final vote</b>	Simon Busuttil, Elisabetta Gardini, Sophia in 't Veld, Sylvia-Yvonne Kaufmann, Jean Lambert, Antonio Masip Hidalgo, Nicolae Vlad Popa, Charles Tannock, Johannes Voggenhuber		
<b>Substitute(s) under Rule 178(2) present for the final vote</b>	Margrete Auken, Mariela Velichkova Baeva, Carmen Fraga Estévez, Anne E. Jensen, Helmuth Markov, Manolis Mavrommatis, Alexandru Nazare, Markus Pieper, Willem Schuth, Gabriele Zimmer		