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**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL
COMMITTEE AND THE COMMITTEE OF THE REGIONS**

on enhanced intra-EU solidarity in the field of asylum

An EU agenda for better responsibility-sharing and more mutual trust

INTRODUCTION

Solidarity is one of the fundamental values of the European Union and has been a guiding principle of the common European asylum policy since the start of its development in 1999. It is now enshrined in Article 80 of the Treaty on the Functioning of the European Union.¹

Solidarity has been recognised as an essential component of the Common European Asylum System (CEAS) since the outset. The need to translate solidarity into concrete measures flows from practical realities since the asylum systems of all Member States are interdependent. An overburdened or malfunctioning system in one Member State has a clear impact on all the others, including through secondary movements. Asylum flows are not constant, nor are they evenly distributed across the EU. They have varied from a peak of 425 000 applications for EU-27 States in 2001 down to under 200 000 in 2006, with a large increase expected this year. Increased asylum flows can stretch the capacity of some Member States to cope. It is the Union's responsibility to assist these Member States, also in order to uphold the Union's common values and fundamental rights by ensuring adequate reception of asylum seekers and refugees and access to protection.

However, solidarity must be coupled with responsibility. Member States must ensure that their systems are able to meet the standards set in international and European law, notably the 1951 Geneva Refugee Convention, the European Convention on Human Rights and the Charter of Fundamental Rights of the EU. The need to keep one's house in order to avoid impacts on other Member States is a key aspect of solidarity. This aspect also needs to be enhanced in order to create an environment of mutual trust, contributing to further development of mutual assistance. It is fundamental to increase trust to strengthen solidarity. Implementing the principle of solidarity requires a real commitment by Member States. The tough economic situation for the EU and its Member States makes this even more demanding. The EU has already developed a series of solidarity tools that constitute a solid basis. Each can be improved and new components can be established to provide a flexible toolbox responding to different solidarity needs.

To this end, the Commission proposes reinforcing intra-EU solidarity on asylum around four axes: practical cooperation and technical assistance, financial solidarity, allocation of responsibilities, and improving tools for governance of the asylum system. This Communication also aims to contribute to the finalisation of the "asylum package" given that the next few months will be crucial for reaching the 2012 objective for which the solidarity dimension must play its part.

1. REALISING THE FULL POTENTIAL OF PRACTICAL COOPERATION AND TECHNICAL ASSISTANCE

1.1. Making practical cooperation a constitutive pillar of the CEAS

Many practical cooperation measures have been undertaken in recent years, latest through the creation of the European Asylum Support Office (EASO), which will further strengthen

¹ This Communication does not address areas of solidarity linked to policies to curb irregular migration, even though there is a link between other migration management policies and a well-functioning asylum system.

practical cooperation in the field of asylum. The support office will ensure that practical cooperation can become a major supporting pillar to the asylum system of the Union. Initial experience of the CEAS has shown that practical action is a necessary complement to legislation to create confidence that all Member States perform the same tasks in a similar way with similar outcomes.

The EASO was inaugurated in June 2011. It will provide a structure to add value to existing cooperation arrangements. For example, the European Asylum Curriculum has the potential to become a common standard for caseworkers across the EU, significantly enhancing trust that practices across Member States are much the same and that decisions taken follow a consistent pattern. The EASO should measure the impact of these measures through specific, Union-wide objectives.

Asylum systems will improve through an interaction between EU legislation, an enhanced practical cooperation and an intelligent use of EU funding mechanisms. As the Union pursues the adoption of more harmonised and improved common standards by adopting the asylum legislative package, Member States will have better common implementation tools at their disposal, which are provided by the support office's activities that will support national cost-reduction efforts. The EASO will also be able to identify and disseminate best practice in aspects such as access to procedure, dealing with the most vulnerable applicants, sharing techniques and managing backlogs. Common tools and best practices, supported by EU funds, will help Member States implement the evolving common standards. The EASO will also usefully contribute to transparent and strategic management of the CEAS, including by issuing its annual report on the state of asylum in the Union.

The impact of the EASO will depend on the Member States' willingness to use the possibilities it offers and on their commitment to engage in such collaboration. It will be necessary to set up a regular practice of European collaboration between national asylum authorities.

One of the common tools that the EASO needs to investigate, as invited by the Stockholm Programme, are procedures facilitating the secondment of officials between Member States to help Member States that face particular pressures. To this end, the EASO should create a pool of experts, case workers and interpreters who could be mobilised at short notice in order to provide assistance to a Member State in need.

It will be necessary to regularly review whether the mandate and the legal basis of the EASO are adequate to respond to the different challenges of solidarity be it short-term or structural, and to new forms of asylum flows.

1.2. Filling the international protection gap in the Union's reaction to migration and asylum crises

The EASO's role is also to assist Member States that face particular pressure. When translated into specific action, the EASO can become a key actor in managing asylum and migration emergencies. Being able to deploy EASO Asylum Support Teams based on operating plans in requesting Member States will be a new asset for solidarity in the field of asylum.

Lessons should be learned from the Union's response to the migratory consequences of events in the Southern Mediterranean. The Union was rapidly able to identify additional financial resources to assist the affected Member States, and deploy operational means coordinated by Frontex for border control operations, which also aided maritime search and rescue

operations. Frontex assisted in the screening of the new arrivals and by providing information. However, other operational solidarity measures specifically relating to international protection could not be deployed, notably because the EASO was not yet sufficiently operational.

As the EASO takes steps to ensure it is ready to fill this gap in case of future needs, one of the essential aspects it should consider is coordination with other Agencies. The EASO, Frontex, and potentially Europol should make specific arrangements, together with the Commission, to ensure there is clarity on the respective roles of each and to ensure that emergency operating procedures are rapid and effective. Such procedures could include the deployment of coordinated teams.

The need for cross-agency cooperation applies equally to reacting to emergencies and to proactive work, such as risk analysis and early warning capacity. In addition, the EASO should support the integration of international protection aspects in the work of Frontex, in light of recently agreed amendments to the Frontex legal base that strengthen the mechanisms protecting fundamental rights in the context of Frontex operations. This could also be done in collaboration with the Fundamental Rights Agency.

During the recent events in the Mediterranean, the Commission examined the possibility of using the Union's Civil Protection Mechanism to assist Member States facing exceptional migration flows that overwhelm national response capacities. At the request of Member States, the Mechanism could be used, under very specific conditions, to coordinate the mapping of offers and delivery of in-kind support.

Key action points

- ⊙ Member States to **contribute to EASO's activities** and assets and make best use of EASO mutual tools.
- ⊙ Member States to set in early 2012 a quantitative target for their asylum officials to be trained using the **European Asylum Curriculum** by 2014.
- ⊙ EASO to provide **technical support** to Member States in fully **implementing** the asylum **legislation**.
- ⊙ EASO to review in 2012 procedures that will facilitate the **secondment of officials** to help Member States facing particular pressures on their asylum systems, and to create a pool of experts, case handlers and interpreters that can be mobilised at short notice in crisis situations.
- ⊙ EASO to improve the **efficiency of deployment of experts** by evaluating Operating Plan methodology and the initial experience of Asylum Support Teams in Greece.
- ⊙ The Commission to **evaluate** in 2013 the **EASO's impact** on practical cooperation on asylum and on the CEAS and to propose possible additional measures deemed necessary to ensure effective solidarity and sharing of responsibilities.
- ⊙ The **EASO** and **Frontex** to agree in 2012 clear cooperation arrangements to maximise analysis, technical assistance and deployment of means and experts to improve EU's capacity to act in emergency situations.

- ⊙ The Commission and Member States to examine the use of the **EU Civil Protection Mechanism** in the event of exceptional migration flows that overwhelm national response capacities when specific conditions are met.

2. ENHANCING THE ADDED VALUE OF FINANCIAL SOLIDARITY INSTRUMENTS SUPPORTING ASYLUM POLICY

2.1. Maximising the use of the European Refugee Fund until 2013

The European Refugee Fund (ERF) has demonstrated how the Union and its Member States working together can create significant added value. Since it was created in 2000, the Fund has helped Member States to increase the capacity of their asylum systems. For example, it helped Italy to put in place an asylum reception system. It assisted the EU-10+2 Member States with less established tradition of providing asylum prior to accession to further develop their systems. It has also allowed Member States to initiate refugee integration policies and has contributed to innovative projects. It inspired Member States to take on new activities including resettlement and relocation. In recent years, it has provided much-needed emergency assistance to Belgium, Greece, Italy, and Malta.

For the remaining two years of operation of the ERF (2008-2013), Member States must ensure that they make full use of the opportunities available under the Fund. This should start with complying with all formal requirements so that all the funds can be disbursed. It is especially important that Member States use the ERF to finance investment that brings long-term benefits to their asylum systems. The Fund is not designed to be simply a top up of national operating budgets for asylum. To this end, the Commission has recently encouraged Member States to make more strategic use of the ERF in 2012 and 2013.

Ultimately, effective implementation of the legislative package on asylum, coupled with innovative practical cooperation projects, should reduce the costs of asylum processes. Asylum is a policy area where investment yields longer-term savings, both financial and social. That is why the ERF should be used in particular to support the transposition and implementation of second-phase CEAS legislation.

2.2. A more flexible, integrated and targeted Asylum and Migration Fund from 2014 to 2020

From 2014, Member States will have a new Asylum and Migration Fund² (AMF) at their disposal. As proposed by the Commission on 15 November 2011, it makes a number of important evolutionary improvements that should help achieve EU policy objectives and generate more significant EU added value.

An important innovation is an overarching home affairs policy dialogue with each Member State on their use of the new Fund, which should precede multiannual programming. This dialogue would set the objectives Member States seek to achieve in the policy area and the specific objectives to be achieved using the Fund's resources. This will be coupled with annual reporting by Member States on implementation of the Fund.

² Proposal for a Regulation of the European Parliament and of the Council establishing the Asylum and Migration Fund, COM(2011) 751.

In parallel, the new Fund will be more flexible. Appropriations under direct responsibility of the Commission will be treated as a single envelope, to be spent in light of policy developments or the situation in Member States or third countries. The new Fund will also better ensure that money goes where it is most needed. The criteria to use the allocations by Member States are intended to be more targeted and are designed to ensure solidarity with Member States under particular pressure, or those with the greatest need to still develop capacity. The new Fund would be able to take into account significant fluctuations in the number of asylum seekers in Member States, including Dublin transferees, and allocate additional resources to Member States in need at the mid-term review. A streamlined management system is foreseen to reduce the administrative burden involved.

The Fund proposes giving a financial incentive to Member States, similar to that currently used for the resettlement of specific categories of refugees (vulnerable groups and persons coming from the Regional Protection Programmes), to compensate Member States that agree to relocate beneficiaries of international protection from another Member State.

Finally, to use more effectively the competence and expertise of the Union's home affairs agencies, the proposal also envisages to make use of the possibility offered by the Financial Regulation to entrust, within the resources available under the Fund, the implementation of specific tasks to the agencies, in the framework of their missions and in complementarity with their work programmes. This is without prejudice to the overall staff reductions foreseen.

2.3. Exploiting complementarities between financial instruments for maximum impact

Financial solidarity for asylum purposes may also benefit, both directly and indirectly, from other EU financial instruments. For example, the European Social Fund provides assistance for vocational training programmes that can assist asylum seekers and beneficiaries of international protection to gain access to the labour market or to increase their skill sets. Other Structural Funds, notably the European Regional Development Fund, may also be used to assist eligible regions in Member States to, for example, help build infrastructure such as accommodation centres. Member States should therefore consider using other EU financial instruments in a coordinated and comprehensive manner. This requires strategic programming and robust inter-ministerial coordination.

Key action points

- ⊙ Member States to make **best use of the ERF 2011, 2012, 2013 programmes**, including the emergency measures. In 2013, programming must be more strategically used, e.g. to support transposition and implementation of legislation adopted within the framework of the 2012 asylum package.
- ⊙ Co-legislators to agree quickly on the **MFF specific instruments** supporting asylum policy presented by the Commission on 15 November 2011.
- ⊙ Member States to ensure coordination and **complementarity with other EU financial instruments** to enhance their capacity to manage asylum flows.

3. ENGAGING WITH THE ISSUE OF ALLOCATION OF RESPONSIBILITIES

3.1. The Dublin Regulation needs reform

The objective of the Dublin Regulation, to assign responsibility for each asylum seeker to a Member State, remains at the core of the CEAS. A mechanism for determining responsibility for asylum applications remains necessary to guarantee the right to an effective access to the procedures for determining refugee status, without compromising the objective of rapid processing of asylum applications, and preventing abuse by the same person submitting multiple applications in several Member States.

The Dublin Regulation's principles, which the Commission proposed to keep in its 2008 proposal to revise the Regulation, are not purely to return asylum seekers back to the State of first entry. Several clauses temper this criterion. In certain situations, Dublin transfers could contribute to overstressing the capacity of a Member State under pressure, to the detriment not only of that Member State, but also of the rights of applicants.

The evolving case-law has posed fundamental questions about how to effectively operate the Dublin system in all circumstances and to ensure that measures taken in the application of the Dublin Regulation fully respect fundamental rights, most notably in the 2011 *M.S.S. vs. Belgium and Greece* ruling of the European Court of Human Rights.³ In a few months, the Court of Justice of the EU will also provide further guidance that will need to be taken into account in the development and the implementation of the CEAS.

In order to safeguard its integrity, improvements must be made to the Dublin system's efficiency and the level of safeguards for applicants. Negotiations on the Commission's 2008 proposal revealed the need to enhance mutual trust in the Dublin system. One of the solutions could be to step up monitoring and problem resolution measures to intervene at earlier stages with evaluation and early warning devices. This should now be given priority in the last phase of the negotiations with a view to meeting the 2012 deadline (see section 4.2 below).

Given that a well-functioning Dublin system is essential for the CEAS, its principles and functioning should be regularly reviewed as other components of the CEAS and EU solidarity tools are built up. A comprehensive 'fitness check' should be made by conducting an evidence-based review covering the legal, economic and social effects of the Dublin system, including its effects on fundamental rights.

3.2. Further developing relocation of beneficiaries of international protection

Relocation consists of transferring beneficiaries or applicants for international protection from one Member State to another, with the receiving Member State assuming responsibility for examining the application or for integration measures.

The idea of relocating applicants for international protection before their protection needs are assessed is contentious. Some stakeholders see it as a useful or even necessary measure, some Member States even going as far as advocating relocation of irregular migrants, whereas others contest this idea. Many questions remain as to how such action would interface with the Dublin system, its practical usefulness and cost-effectiveness compared to other forms of solidarity, and the impact on applicants themselves. The Commission does not consider it

³ Application no. 30696/09, 21.1.2011.

useful to propose an EU mechanism for relocating applicants for international protection for the moment. Nevertheless, the Commission created the scope for Union co-financing of such activities in the AMF proposal, consolidating and further developing what is already possible under the ERF. This will facilitate trailblazing by Member States who would be willing to engage in voluntary projects, with the EASO taking a coordinating role. Such co-financing could also be useful in an emergency.

By contrast, there is a consensus that relocating beneficiaries of international protection can be both useful and appropriate. In June 2009, the Commission proposed an EU-wide pilot, the EUREMA (EU Relocation Malta Project), co-financed by the ERF. The project finished in summer 2011, having resettled 227 beneficiaries of international protection from Malta to six other Member States.

The pilot project was an important experience for all actors involved. During the project, Member States were creative in finding solutions to many legal and practical issues concerning, for example, granting appropriate status or effective integration measures. These solutions could help the EASO prepare the support activities for relocation called for by the EASO's legal base, such as operational preparatory measures, raising awareness, and coordinating execution. The success of the project led to the launching of its second phase with a pledging conference on 12 May 2011 at the initiative of the Commission. Although more total places were pledged than for the first phase—a total of nearly 340—the number still remains low. The Commission urges Member States to go as far as they can in providing further places, especially given the number of new arrivals of asylum seekers in Malta in summer 2011.

The Commission has strongly supported relocation by initiating and driving the pilot project. Based on the experience of the two phases of the project, and taking into account the EASO's future support for relocation activities, the Commission will propose a voluntary, permanent scheme, subject to a further impact assessment. It would allow Member States to request assistance through relocation, including in an emergency.

A further recent development is the adoption of the amended Directive⁴ on long-term residency rights, granting recognised beneficiaries of international protection certain rights, equal treatment and the right to move to another Member State after five years' residency. This is not itself a solidarity measure, but it may provide some help in easing the pressure on certain Member States if a number of recognised beneficiaries choose to move to another Member State under certain conditions.

3.3. Investigating the feasibility of joint processing of applications on the Union's territory

The issue of joint processing of asylum applications on the territory of the Union was first raised in The Hague Programme. The Stockholm Programme invited the Commission to finalise its study on the feasibility and legal and practical implications to establish joint processing of asylum applications.

⁴ Directive 2011/51/EU of the European Parliament and of the Council of 11 May 2011 amending Council Directive 2003/109/EC [concerning the status of third-country nationals who are long-term residents] to extend its scope to beneficiaries of international protection.

There are many aspects of joint processing that need to be clarified. The essential questions include an assessment of the type of situations where joint processing could be useful. Legal and administrative issues to be considered include compatibility with EU law, legal basis in the Treaties, the question of effective remedy, the status of persons subject to joint processing, who would have the competence to take decisions, the link to transfer of protection and/or mutual recognition of asylum decisions, and reconciliation with the Dublin system. Financial issues include the costs compared to a purely national procedure and funding mechanisms. Practical issues to study include among others the place where joint processing would take place and the potential use of remote working. Joint processing would of course need to fully respect the rights of applicants.

Joint processing on the Union's territory could become a useful solidarity tool. It could assist Member States under pressure in reducing backlogs of cases, thus accompanying the Dublin system. It could be a way of disseminating best practice and sharing techniques, again with a view to harmonising asylum systems by increasing trust in each others' asylum systems. Given the varying numbers of asylum arrivals, some Member States go through periods of relatively reduced pressure and may have spare staffing capacity with which to help other Member States. It is worth investigating whether resources could be borrowed or shared according to capacity between Member States, possibly in connection with procedures for secondment of officials to be developed by the EASO.

The Commission will launch a study to consider these questions in depth. The outcome could be available at the end of 2012.

3.4. Ensuring adequate allocation of responsibility in exceptional circumstances

Apart from the emergency component of a future permanent relocation scheme, in the event of a mass influx of displaced persons, the Commission will always consider activating the mechanism of the Temporary Protection Directive when the conditions are met. This Directive is a useful tool in an exceptional situation. It provides for an adequate status for its beneficiaries, while relieving the asylum system and creating a structured, yet voluntary, mechanism for the transfer of beneficiaries between Member States. At the same time, the criteria for its triggering are strictly defined: it can be done only in the event of a mass influx or imminent mass influx of displaced persons unable to return to their country of origin in safe and durable conditions, in particular if there is also a risk that the asylum system will be unable to process this influx without adverse effects for its efficient operation. A mass influx implies the arrival in the Union of a large number of such displaced persons, who come from a specific country or geographic area, whether their arrival in the Union was spontaneous or aided, for example through an evacuation programme. The Union has not found itself in a situation of mass influx of displaced persons since the Kosovo refugee crisis of 1999. The events of 2011 in the Southern Mediterranean have not led to an influx of persons into the EU of a comparable scale.

Large numbers of asylum seekers and irregular migrants arriving at the EU's southern external border often give rise to search and rescue situations. Member States are bound by obligations under international law to assist any person in distress at sea and to ensure disembarkation in a place of safety as soon as possible. The principle of *non-refoulement* must be fully respected. These obligations also apply to third countries of departure. The Commission encourages Member States to ensure the closest possible cooperation and coordination between them in meeting their obligations. While these are absolute obligations where the life and health of the persons are paramount, it cannot be denied that without

measures taken at EU level, large numbers of arrivals put a serious strain on Member States' reception capacities and responsibilities, including with regard to return. The positive impact of measures such as relocation, as outlined in the previous section, should therefore be taken into account as a means of addressing the strain which may result from the disembarkation of rescued persons who apply and qualify for international protection.

Key action points

- ⊙ Co-legislators to **speed up negotiations** to reform the **Dublin Regulation** to meet the 2012 deadline.
- ⊙ The Commission to launch a **'fitness check'** of the Dublin Regulation in 2014.
- ⊙ Member States to increase their pledges in the context of extending the **relocation pilot project for Malta**, as underlined during the Ministerial Conference of 12 May 2011.
- ⊙ Subject to a further impact assessment, the Commission to propose in 2012 a **voluntary, permanent relocation scheme** for beneficiaries of international protection.
- ⊙ The EASO to **engage in supporting and facilitating relocation**, as foreseen by the **EASO Regulation**, on the basis of the EUREMA experience.
- ⊙ The Commission to launch a **study** on the feasibility and legal and practical implications to establish **joint processing** of asylum applications, as foreseen in the Stockholm Programme, for results before the end of 2012.
- ⊙ The EU to make use of the **Temporary Protection Directive** when criteria and situations are met.

4. MUTUAL TRUST AT THE HEART OF A RENEWED GOVERNANCE SYSTEM

4.1. Lessons from Greece: complementing infringement proceedings

The Commission has repeatedly underlined that the unclear standards of the current asylum *acquis* contribute to an uneven level of implementation and difficulties in monitoring. The amended CEAS instruments proposed by the Commission should significantly improve clarity and precision and allow the Commission to better supervise the application of EU law.

At the same time, in order to ensure the good functioning and resilience of each Member State's asylum system at all times, the traditional instruments of supervision of application of the *acquis* (such as infringement proceedings and regular evaluations of legal instruments) must be complemented with additional, preferably preventive measures, based on an adequate level of mutual trust. While Member States remain primarily responsible, a more comprehensive response is needed, especially as the Union has a duty not only to its Member State, but also to asylum applicants. The developments in Greece were an important experience in this regard as the Union provided a comprehensive reaction to the failing Greek asylum system which has shown some signs of improvement although much still needs to be done.

Following allegations that Greece had not implemented the EU asylum legislation correctly and certain aspects of its asylum system were very poor, including inhumane conditions at

detention centres, the Commission launched an infringement procedure against Greece in 2009. However, the Commission recognised that it was necessary to provide various forms of assistance to Greece to improve the situation, given the humanitarian aspect of asylum.

In parallel to the infringement proceedings, the Commission therefore engaged in a dialogue with the Greek authorities. It helped Greece develop a National Action Plan on Asylum and Migration Management. It coordinated assistance by experts from other Member States. It also provided ERF emergency funding, complemented by other sources of EU financial support. After the request made by Greece, in April 2011 the EASO together with the Greek authorities developed a two-year Operating Plan to deploy Asylum Support Teams, which have started their work on the ground.

Coupled with changes made by the Greek government, notably through the adoption of new laws, a number of positive developments can be identified relating to the Action Plan. In particular, there has been an increase in asylum recognition rates (from less than 1% to 12.35%) and the quality of decision making has improved. Although more progress is needed and serious concerns remain in certain areas, such as detention centres and access to certain rights, this is an example of where the Member State remains responsible for getting its own house in order, but is given both financial and practical assistance with which to do so.

At a given point, monitoring must go beyond the strict question of application of the *acquis*, as over time, the accumulation of capacity problems and problematic management choices could also potentially lead to serious fundamental rights infringements and destabilisation of the CEAS, including of the Dublin system.

4.2. Strengthening the resilience of the Dublin system

The Commission, the European Parliament and the Member States have recently discussed how to ensure the proper functioning of the asylum systems of all Member States and how to detect and address emerging problems before they lead to crises and infringement proceedings. The idea of an evaluation and early warning mechanism seems to present a way forward.

Such a mechanism could have two functions: first, ongoing monitoring of all Member States to ensure their constant preparedness; second, a structured, sequential course of action to address deficiencies before they grow into a fully-fledged crisis.

In practice, an evaluation and early warning process could cover different aspects of governance of each Member State's asylum system, including for example the geographical and budgetary organisation of the asylum system, the impact of Dublin transfers, the proper use of EU solidarity tools, participation in EU solidarity initiatives etc. The reports and recommendations resulting from the assessment would provide early warning on potential problems. They could also be used to better coordinate solidarity measures targeting the Member State, including better programming of EU Funds and priorities of the EASO's practical cooperation activities. The right means and procedural arrangements would need to be found to ensure the effectiveness of this process.

Specific follow-up steps need to be provided for to ensure that the results of the assessment are adequately monitored. The plan could include requests for coordinated solidarity measures to support the action needed by the Member State concerned. The Commission believes that such a process could substantially improve mutual trust between Member States and with civil society organisations that are often critical of the Dublin system.

4.3. Building mutual trust through other areas of migration management

Mutual trust is fundamental to a well-functioning asylum cooperation. Increased trust will lead to increased solidarity, which is why it is so important to enhance trust. Although the objectives of each migration-related policy are different, better migration management in the form of better border management and visa policy can also have a positive impact on improving mutual trust between Member States in asylum matters.

The Commission proposed a number of changes to Schengen governance on 16 September 2011, aimed at safeguarding freedom of movement by improving mutual trust among Member States. The proposals would improve the common management of Schengen by revising the Schengen evaluation mechanism. By better ensuring the proper application of the Schengen *acquis*, the proposals would increase confidence in the Union's ability to handle border control-related problems in common and in the spirit of solidarity, which will also make it easier for Member States to engage in asylum solidarity initiatives.

On visa policy, one of the amendments to the Visa Regulation⁵ proposed by the Commission on 24 May 2011 may also contribute to the efficiency of Member States' asylum systems. The introduction of a visa safeguard clause, as a last-resort measure, would make it possible to suspend visa-free movement from a third country where there is evidence that it has led, *inter alia*, to abuse of the asylum system.

This mechanism would in particular allow the Union to maintain a balance between better managing the movement of third-country nationals and ensuring that visa-free travel does not lead to irregularities or abuse. Thus, the Union will continue, on the one hand, to accompany visa liberalisation with protective mechanisms for Member States, drawing from experiences such as the 'post-visa liberalisation monitoring mechanism' set up to ensure the smooth operation of the visa-free regime with the Western Balkan countries. On the other hand, the EU will also activate means to provide solutions to Member States faced with a specific asylum flow from third countries. The post-visa liberalisation monitoring mechanism allowed the Commission to obtain the information it needed and to propose measures oriented at preventing subsequent inflows of irregular immigrants abusing the visa-free regime.

Key action points

- ⊙ EU to meet the **2012** target for the **asylum package**.
- ⊙ Member States to **implement EU law** and the Commission to evaluate regularly and pursue infringements.
- ⊙ Greece to actively pursue **implementation of its Action Plan**, making full use of the available solidarity measures, to meet every deadline set in the Plan.
- ⊙ Co-legislators to finalise negotiations on the **Dublin Regulation** with reinforced provisions to support **mutual trust** between Member States and early warning to **detect early problems**.
- ⊙ Co-legislators to approve the **Schengen package** of 16 September 2011 to improve the governance of border management.

⁵ COM(2011) 290.

⊙ Co-legislators to approve the **amendment to the Visa Regulation** proposed by the Commission on 24 May 2011.

CONCLUSION

The Union and its Member States have at their disposal an evolving, flexible toolbox of solidarity measures. These measures can be used either together or separately. As proposed by this Communication, some can be improved and new measures could be developed.

Other aspects of migration management can also help consolidate intra-EU solidarity in the field of asylum. The EU must have an efficient policy on returns to safeguard the credibility and integrity of asylum systems. This is an issue that the Commission will address in a separate Communication in 2013. Working towards more convergence in legal migration policy can also support solidarity, in particular to ensure that asylum policy, including its solidarity aspects, does not suffer the consequences of ineffective management of legal migration.

Cooperation with third countries, especially countries of origin and transit of refugees, if conducted appropriately by the EU as a whole, can also help manage or prevent asylum flows. Such cooperation should include, for example, helping to improve protection space in other regions of the world, or offering an increased number of resettlement places inside the EU. Such cooperation can also be a way to express solidarity with third countries, which often are under much higher asylum pressure than the EU, as recently demonstrated in the migration crisis related to the events in the Southern Mediterranean, and as highlighted in the Communication on a Global Approach to Migration and Mobility.⁶

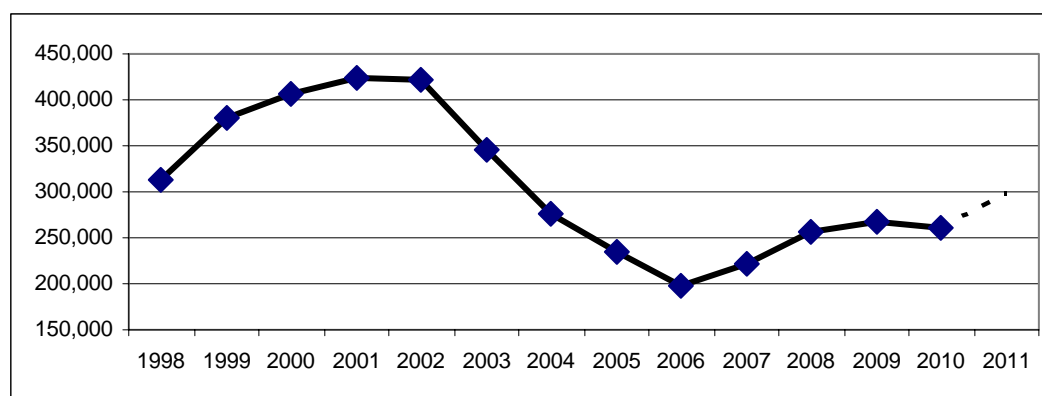
Finally, the Commission always retains the possibility to make proposals on the basis of Article 78(3) TFEU in emergency situations characterised by a sudden inflow of nationals of third countries, in order to adopt provisional measures for the benefit of the Member States concerned if the already available instruments do not provide the required possibilities and legal basis.

The success of the Union's solidarity measures depends on the engagement and cooperation of all stakeholders. The Union must continue to discuss solidarity in asylum, including at high political levels, on a regular basis to improve and review the toolbox of solidarity measures on asylum. The Commission will report on the progress achieved in the next 'Tracking Method' annual reports on immigration and asylum.

⁶ COM(2011) 743.

ANNEX
Statistics on asylum

Between 1998 (the earliest date for available EU-level data) and 2010, the total number of asylum applications in the 27 EU Member States changed as follows. In the first half of 2011, the number of asylum applications increased by 14% compared to the first half of 2010 (note that data from Greece and Luxembourg is not yet fully available).



Source: Eurostat.

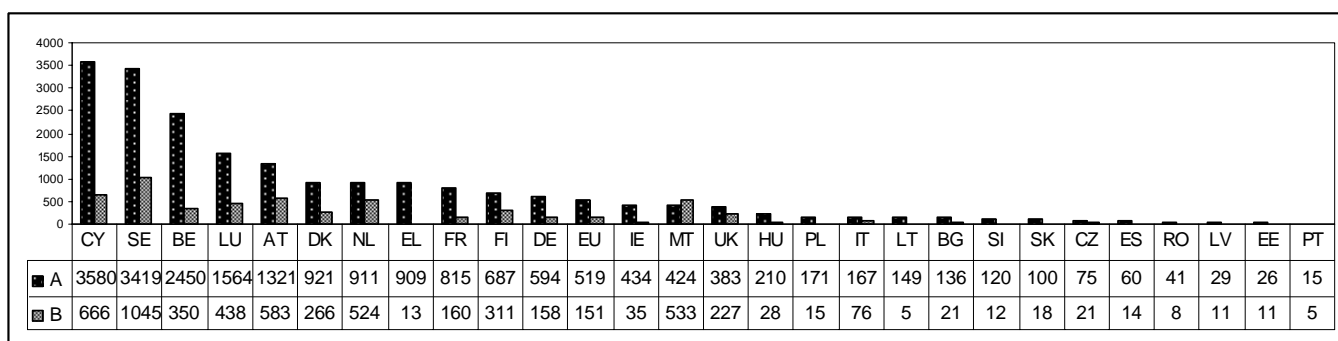
Asylum applications in the first half of 2011 compared to the first half of 2010

	H1 2010	Full year 2010	H1 2011*	Change H1 2010-2011*	2011M01	2011M02	2011M03	2011M04	2011M05	2011M06
BE	11 445	26 550	14 790	+29%	2 335	2 365	2 825	2 525	2 420	2 320
BG	500	1 030	465	-7%	115	90	70	65	60	65
CZ	465	785	370	-20%	65	55	70	60	75	45
DK	2 310	5 105	1 830	-21%	365	290	325	290	290	270
DE	18 455	48 595	22 890	+24%	4 245	3 735	4 075	3 365	3 875	3 595
EE	20	35	35	+75%	5	5	5	5	10	5
IE	1 025	1 940	685	-33%	135	125	125	85	100	115
EL	4 705	10 275	3 800*	+3%*	605	920	1 005	455	815	:
ES	1 210	2 745	1 950	+61%	240	335	365	430	365	215
FR	25 925	52 725	28 835	+11%	4 400	4 640	5 295	5 125	5 010	4 365
IT	5 370	10 060	10 865	+102%	590	1 625	1 775	1 460	3 305	2 110
CY	1 235	2 870	895	-28%	185	145	125	125	165	150
LV	25	60	110	+340%	5	20	5	15	40	25
LT	195	505	185	-5%	35	35	35	20	30	30
LU	295	780	770*	+208%*	115	145	230	145	135	:
HU	1 405	2 095	775	-45%	115	90	135	165	110	160
MT	60	170	1 650	+2 650%	10	15	30	1 130	365	100
NL	7 280	15 110	7 105	-2%	1 255	1 090	1 155	1 095	1 295	1 215
AT	5 065	11 060	5 830	+15%	885	910	970	980	1 000	1 085
PL	2 920	6 535	2 865	-2%	365	450	520	430	550	550
PT	80	160	95	+19%	10	20	15	15	20	15
RO	475	880	560	+18%	50	85	125	95	95	110
SI	90	250	205	+128%	35	35	30	15	35	55
SK	295	540	205	-31%	35	45	30	20	35	40
FI	2 025	3 665	1 315	-35%	240	210	240	195	210	220
SE	14 110	31 940	12 620	-11%	1 970	1 965	2 310	2 040	2 375	1 960
UK	11 875	23 740	12 690	+7%	2 140	1 995	2 230	2 020	2 070	2 235

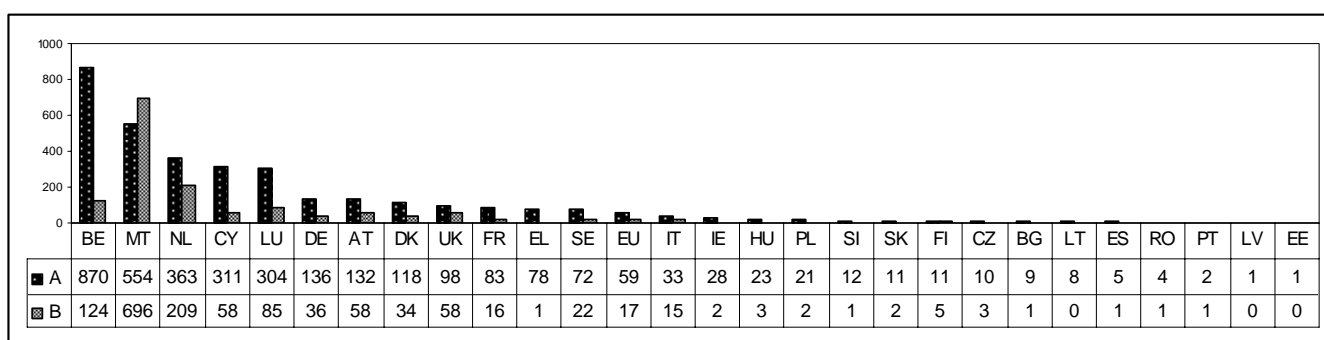
* Except EL and LU. For these two Member States, the absolute values for the first half of 2011 and the comparison are calculated for first five months. Data extracted on 3 October 2011, source: Eurostat.

Asylum applications (A) and new beneficiaries of protection (B) for the full year 2010

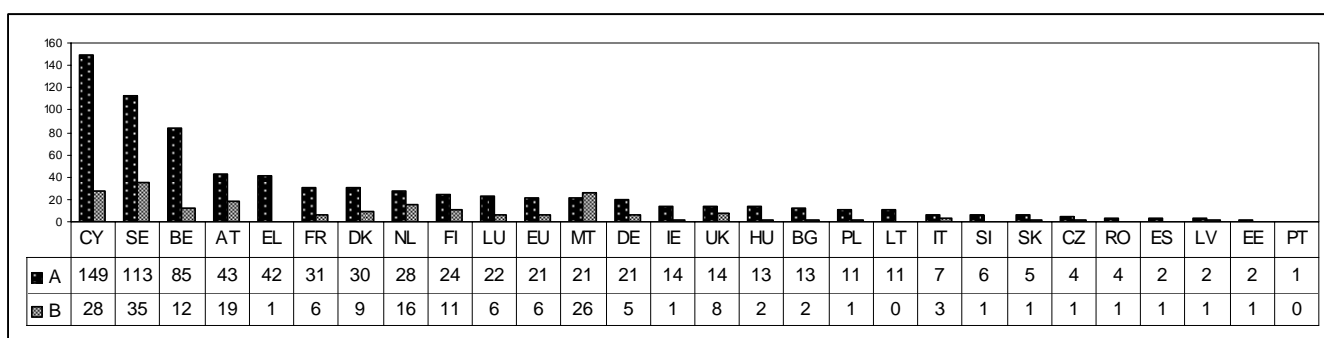
Full year 2010: Applications and new beneficiaries per 1 000 000 population



Full year 2010: Applications and new beneficiaries per 1 000 km² of surface



Full year 2010: Applications and new beneficiaries per 1 000 units of GDP

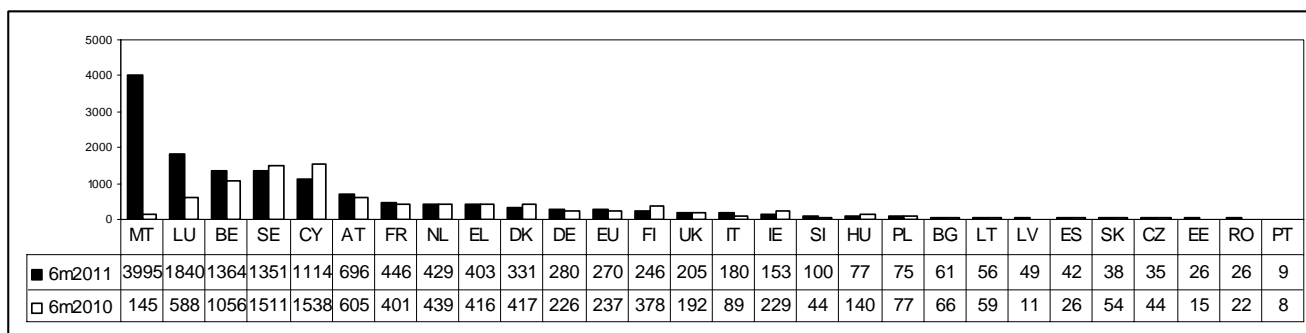


Population: as of 1 January 2010. Surface: latest data available (2010 or earlier for some Member States). GDP: Purchasing Power Standard (an artificial unit of currency which eliminates the effect of price level differences across Member States⁷) for the full year 2010. Data extracted on 3 October 2011, source: Eurostat.

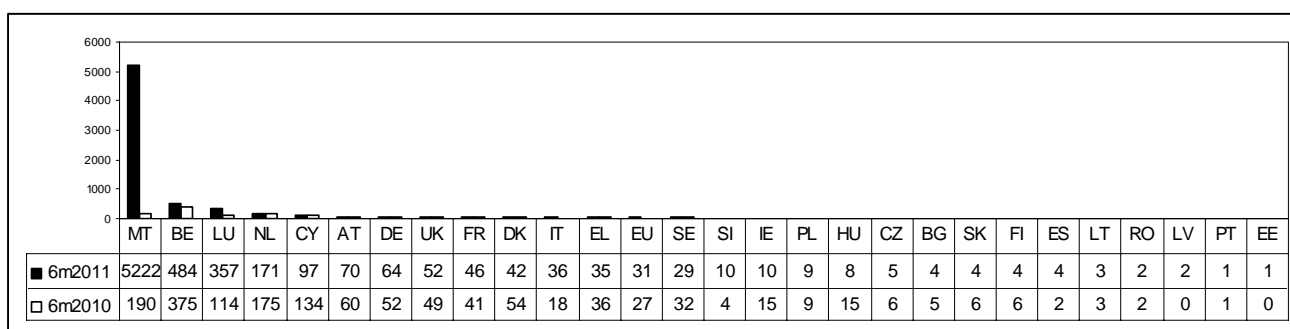
⁷

See http://epp.eurostat.ec.europa.eu/portal/page/portal/purchasing_power_parities/introduction.

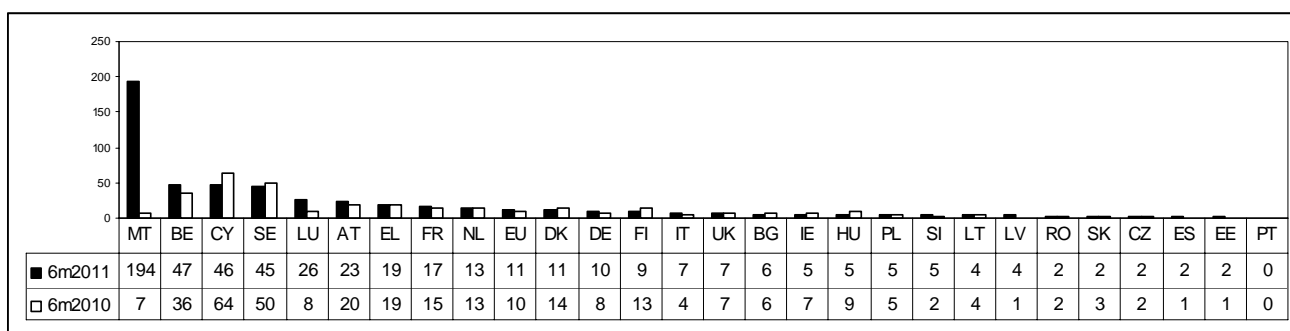
Comparison of first half 2011/2010: applications per 1 000 000 population



Comparison of first half 2011/2010: applications per 1 000 km² of surface

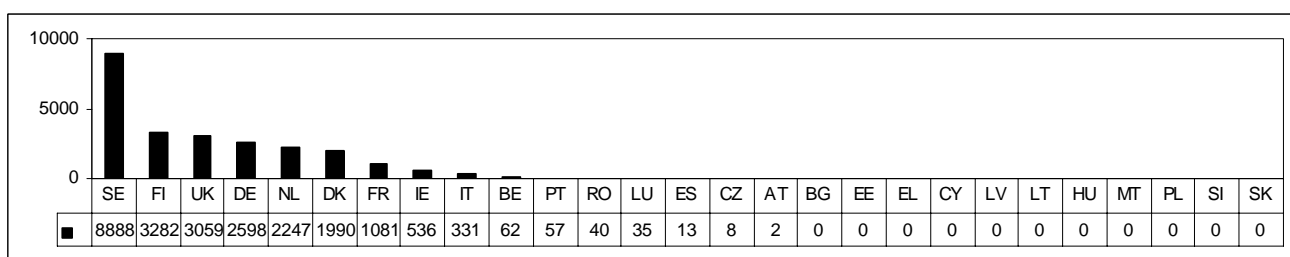


Comparison of first half 2011/2010: applications per 1 000 units of GDP



Population: as of 1 January 2010. Surface: latest data available (2010 or earlier for some Member States). GDP: Purchasing Power Standard for the full year 2010. Data for EL and LU was not available for June 2011 and was extrapolated based on the available 5 months. Data extracted on 3 October 2011, source: Eurostat.

Refugees resettled by Member States from third countries between 2006 and 2010



Source: UNHCR for 2006–2007, Eurostat (extracted 8 December 2009) for 2008 except UK: UNHCR, Eurostat (extracted 1 August 2011) for 2009 and 2010.