



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 17.2.2006
SEC(2006) 189

COMMISSION STAFF WORKING DOCUMENT

ANNEXES TO THE

**COMMUNICATION FROM THE COMMISSION TO THE COUNCIL
AND THE EUROPEAN PARLIAMENT**

ON STRENGTHENED PRACTICAL COOPERATION

***NEW STRUCTURES, NEW APPROACHES:
IMPROVING THE QUALITY OF DECISION MAKING IN
THE COMMON EUROPEAN ASYLUM SYSTEM***

{COM(2006) 67 final}

ANNEX A

POLICY BACKGROUND TO THE HAGUE PROGRAMME CONCLUSIONS ON PRACTICAL COOPERATION

1. In the Communication of 22 November 2000 *“Towards a common asylum procedure and a uniform status valid throughout the Union for persons granted asylum”* the Commission looked to new mechanisms for cooperation between national authorities to compile and exchange information, analyse statistics, provide ‘early warning’ and rapid information on national and Community administrative and judicial decisions, the exchange of good practice, training, processing requests and Country of Origin Information.
2. At the Justice and Home Affairs Council in Luxembourg on 29 April 2004, the Council formally adopted the *Council Directive on minimum standards for the qualification and status of third country nationals and stateless persons as refugees or as persons who otherwise need international protection* (the Qualification Directive). On 1st December 2005 the Council adopted Directive 2005/85 on minimum standards on procedures in Member States for granting and withdrawing refugee status¹ (the Asylum Procedures Directive), (the draft Asylum Procedures Directive). These instruments were the final building blocks in the first stage of the Common European Asylum envisaged at the Tampere Council of October 1999. The Communication of 15 July 2004 *“A More Efficient Common European Asylum System: the Single Procedure as the Next Step”* (the Single Procedure Communication) set out why the EU should take steps towards a Single Procedure.
3. In the Hague Programme of 4-5 November 2004, the European Council reiterated that the aims of the Common European Asylum System in its second phase will be the establishment of a common asylum procedure and a uniform status for those who are granted asylum or subsidiary protection. The Council said that that should be based on the full and inclusive application of the Geneva Convention and built on a thorough and complete evaluation of the legal instruments that have been adopted in the first phase. The Commission was invited to conclude that evaluation of first-phase legal instruments in 2007 and to submit the second phase instruments and measures to the Council and the European Parliament with a view to their adoption before the end of 2010.
4. The Hague Programme of 4-5 November 2004 the European Council also called for the establishment of appropriate structures involving the national asylum services of the Member States with a view to facilitating practical and collaborative cooperation towards three main objectives: achieving an EU wide Single Procedure; the joint compilation, assessment and application of Country of Origin Information; and how Member States can better work together to address particular pressures on asylum systems or reception capacities resulting from factors such as geographic location. The Hague Programme says that after a common asylum procedure has been established, these structures should be transformed, on the basis of an evaluation into

¹ OJ L 326/13 13.12.2005.

a European support office for all forms of cooperation between Member States relating to the Common European Asylum System.

5. The Hague Programme welcomed the establishment of the new European Refugee Fund for the period 2005-2010 and stressed the urgent need for Member States to maintain adequate asylum systems and reception facilities in the run up to the establishment of a common asylum procedure. The Commission were invited to earmark existing Community funds to assist Member States in the processing of asylum applications and in the reception of categories of third country nationals on the basis of a proposal to be made in 2005.

ANNEX B

ACHIEVING A SINGLE PROCEDURE FOR THE ASSESSMENT OF APPLICATIONS FOR INTERNATIONAL PROTECTION

Objectives of EU cooperation.

- (1) The Single Procedure Communication included an overview of those Member States which conducted a Single Procedure for both types of protection defined by the Qualification Directive, which did not and which had the potential to conduct such a procedure within their national legislation. The Commission has noted that since the issue of the Communication, some Member States have introduced or are considering introducing legislation establishing a Single Procedure for all applications for international protection.
- (2) The Commission recommended that the EU take steps towards a Single Procedure through a twin approach consisting of a preparatory phase of consultation, debate and preparation of the activities which Member States need to undertake to unify the procedures which lead to the two types of status set out in the Qualification Directive. In order to identify the changes which needed to take place, both at national and at EU level and to make those changes through the adjustment of operational practices and practical cooperation before or in parallel with a legislative approach the Commission would initiate a programme of activities, including the exchange of information on best practice, the launch of Community actions of ERF and the initiation of calls for projects under ARGO to cater for the specific needs which arise. This was the *One Stop Shop Action Plan* of the Single Procedure Communication. Of equal importance is the building of a tightly focused and efficient asylum system which guarantees good quality decisions and can respond to challenges set by the mixed migratory flows and particular pressures situations which Member States face as well as increasingly diverse circumstances which surround reasons for international protection.
- (3) Justice and Home Affairs Council Conclusions on the Single Procedure of 31 October 2004 said that in addition to the general objective of establishing as soon as possible, the Common European Asylum System, there was a clear need for greater practical cooperation and exchange and assessment of information between Member States to support the implementation of the first stage legislation in the Common European Asylum System and to take steps towards a Single Procedure to cover the types of protection provided for by the Qualification Directive. The Council endorsed the approach set out in the Communication and invited the Commission to present a *One Stop Shop Action Plan* which ensured that such practical cooperation is the vehicle for identifying the necessary steps taken.
- (4) With the emergence of the Hague Programme and the closely related objectives on Country of Origin Information and on '*particular pressures*', activities to help the EU take steps towards a Single Procedure should form part of the wider approach to practical cooperation rather than be taken forward as an entirely separate strand of work. The *One Stop Shop Action Plan* is therefore incorporated into the programme of activities proposed in this communication.

Programme of activities to take steps towards a Single Procedure

- (5) In order to achieve the objective of equal procedural guarantees for both types of protection status set out in the Qualification Directive an outline action plan of activities is detailed below. Most of the work will be carried out through workshops convened by the Commission but also through the initiatives of individual Member States. . Following the completion of those activities, the Commission will initiate legislative action to ensure that, at a minimum, the guarantees agreed as applicable to claims for refugee status in the Asylum Procedures Directive extend to those for subsidiary protection in the Qualification Directive.
- (6) Those activities focus on three main strands of activity geared towards the eventual adoption of a Single Procedure by all Member States.
 - (a) Equal treatment in the Common European Asylum System: ensuring that Member States introduce the same treatment to all applicants for international protection where required to do so under the Asylum Procedures Directive and Qualification Directive.
 - (b) Comparisons of Single and Separate Procedures: examination of the legislative and administrative changes may be required of Member States which do not operate a Single Procedure
 - (c) Efficiency and Quality issues in the Single Procedure: how to use the Single Procedure to improve quality and ‘frontload’ EU Member States’ asylum procedures.

Some of these activities should be carried out through the asylum cooperation network, in particular where the sharing of information is crucial to making progress towards the stated objectives. Where there is a need to obtain information and expertise to inform the actions of the Commission, e.g. in proposing legislation or legislative amendments, then ad hoc expert groups or workshops may be called in order to elicit the necessary information.

Cooperation activities under the asylum cooperation network

- (7) A first priority and foundation for taking activities forward on the Single Procedure must be an analysis and evaluation of the implementation of provisions in the first stage legislation of the Common European Asylum System which require Member States to introduce the same treatment to both applicants for refugee status and subsidiary protection.
- (8) The Commission will also organise an analysis of Member States national legislation. The analysis will focus on those Member States which do not operate a Single Procedure. Following that analysis, the task would be to assess how current legislation applying in the Member State would need to be changed to properly implement the Qualification Directive and the Asylum Procedures Directive.
- (9) Other related activities which should be dealt with through the asylum cooperation network include an examination of arrangements between different authorities responsible at national level with respect to individual case management in order to

promote best practice (involving only those States where more than one authority may be involved in determination of claims for international protection). IT solutions on providing appropriate access to COI and individual decisions for different authorities should also be explored.

- (10) The Commission will also commission a survey into the costs and benefits of certain asylum systems and invite Member States to present aspects of the financial outlay of their systems in order to compare costings and benefits of different systems. Separately, individual Member States who did run a Single Procedure should initiate ‘twinning exercises’ with Member States who did not, supported, where appropriate, by the available financial opportunities.

Expert groups and workshops on the Single Procedure

- (11) The Commission will organise workshops to address the equal treatment issues in the asylum directives. The findings of such workshops will ensure that Member States are fully aware of the equal treatment issues and in a better position to introduce a harmonised interpretation in their national legislation. They will also help the Commission identify the possible scope of legislative amendments required to achieve a Single Procedure.
- (12) A series of *ad hoc* expert meetings convened by the Commission and will set in motion a programme of activities mainly related to training to reinforce fair and efficient procedures and ‘frontloading’ – improving the quality of first instance decisions. The involvement of NGOs and UNHCR is obviously important here. Projects could be put forward under ARGO or the Community actions of the ERF II to support activities on:
- Effective methods to accelerate all stages of the procedure without compromising the end result.
 - Development of good practice and common basic principles on taking decisions based on a comprehensive assessment of all grounds for protection.
 - How a Single Procedure can enhance the returns process – simplifying administrative frameworks without prejudicing international obligations and building smooth cooperation between asylum and return authorities.
 - The strategic use of language analysis and tools for age determination to both accelerate and enhance the quality of the claim.

Summary of activities necessary for achieving a single procedure for the assessment of applications for international protection

First phase of activities towards a single procedure for the assessment of applications for international protection			
Objective	Necessary Activities	Method of delivery	Start of activities
Ensuring equal treatment for all applications for international protection	Analysis and evaluation of i) the provisions of the first stage legislation which require equal treatment; ii) Member State legislation	Commission to launch a call for tenders under ERF II Community Actions 2005	Second semester 2006
	Exchange of best practice on equal treatment issues.	Workshops/ad hoc expert groups	Second semester 2006
Improving Quality Through the Single Procedure	Accelerating procedures without losing quality including the nexus with returns	Workshops/ad hoc expert groups	Second semester 2007
	How to include all possible grounds for protection	Workshops/ad hoc expert groups	Second semester 2007

Managing resources in the Single Procedure	Survey into costs and benefits of certain asylum systems including presentation of aspects of financial outlay	Commission/key Member States supported by ARGO/ERF II.	Second semester 2007
	Twinning exercise between Single Procedure and non-Single Procedure Member States.	Member States supported by ARGO/ERF II if needed.	Second semester 2006
	Streamlining and coordinating the work of different authorities in the same administration	Workshops/ad hoc expert groups	First semester 2007

ANNEX C

JOINTLY COMPILING, ASSESSING AND APPLYING INFORMATION ON COUNTRIES OF ORIGIN

The importance of Country of Origin Information in the asylum process

- (1) Member States' asylum authorities collect and analyse information on the socio-political situation in countries of origin through different types of sources. This information is generally referred to as Country of Origin Information (COI). These sources include general public sources, such as reports from UNHCR, the US Department of State on Human Rights, NGOs such as Human Rights Watch and Amnesty International, national and international media, bi-lateral contacts in countries of origin, embassy reports etc. Member States' authorities may also organise fact-finding missions when the collection of information on the spot appears to be necessary or a more reliable and efficient approach. Some administrations also specialise in the collection of information on individual cases where this is necessary to decide on a specific case.
- (2) Article 4 of the Qualification Directive requires that the assessment of an application for international protection should take into account all relevant facts as they relate to the country of origin. This should include laws and regulations of the country of origin and how they are applied. Article 7 of the Asylum Procedures Directive requires Member States to ensure that precise and up to date information is made available to personnel responsible for examining applications and taking decisions. This includes information from UNHCR, on the general situation in countries of origin or transit of applicants for asylum.

Current cooperation

- (3) Different fora for cooperation and exchange of information on COI have developed to address the need to share information. Information fora exist on an international level (IGC, A8, UNHCR's *Refworld*) and also on an informal bilateral level. At EU level, asylum practitioners exchange views on COI at **Eurasil** which was established by the Commission in July 2002 as a network for asylum practitioners. The participants who primarily attend these meetings represent those EU Member States' authorities responsible for the adjudication of asylum applications in EU Member States (in first instances and also from the appeal bodies). UNHCR, other international or non-governmental organisations and experts on certain issues have frequently attended Eurasil.
- (4) **Eurasil** has been providing a forum for exchange of COI and best practices among EU Member States, asylum adjudicators and the European Commission. Sessions on particular Countries of Origin comprise presentations from Member States with a particular interest in that country as well as field representatives from Member States and international organisations. The activities also help practitioners to enhance working relationships with each other. **Eurasil** has done important preparatory work, but its current working methods do not provide means for a structural follow-up. The legal and political imperatives given by the adoption of the Qualification Directive and

the Asylum Procedures Directive, make clear that a more systematic approach to COI is required.

- (5) The ARGO financial programme has produced examples of concrete joint action on COI between several Member States. Under ARGO 2003, two projects were funded which supported fact finding missions to third countries with significant refugee producing situations. Those projects should serve as a model for future missions and their findings would be shared among all 25 Member States.

How to achieve joint compilation, assessment and application of COI

- (6) The practical needs of Member States in the COI field vary greatly. Some Member States have invested heavily in this area and run sophisticated COI systems while others retain more basic systems or rely on the services of NGOs or UNHCR. The need for all Member States to apply COI in the same way and using the same sources is inherent in the agreement of the Common European Asylum System as described in the main body of this Communication.
- (7) Ensuring access to the same COI sources is the first challenge. To this end, the establishment and development of an EU 'common portal' for accessing COI sources should be the key initial activity for the EU in aiming for the joint approach called for in the Hague Programme. Joint compilation, assessment and application of COI in support of the Common European Asylum System means that Member States should have access to a common repository of COI that is assembled in compliance with common standards and principles. The long term objective is therefore the establishment of an EU COI database which delivers these guarantees. An outline of activities towards that goal is described below.

Activities

Common portal for COI

- (8) The first step in this process, which will be at the core of the cooperation network to be created of the EC Treaty, is to establish an easily accessible common entry point for existing information. This could be achieved via the creation of a 'common portal' through which all Member States authorities could access through one stop all official COI databases. Also available via the 'common portal' could be the legislation of each Member State relevant to the transposition of the Common European Asylum System as well as Community legislation, relevant national and EC case law, information produced by the external Commission services on specific countries as well as other official sources of information. . A 'common portal' would provide a useful additional resource particularly for those Member States with less well developed COI resources. Time would be saved by accessing these key official databases through one stop rather than searching and downloading individually from different sites. The portal would be designed with easily recognisable icons (e.g. flags) corresponding to each Member State, which provide information produced by that Member State on specific third Countries. The 'common portal' would simply be a gateway to existing information on COI without any agreed standards for such information. Nevertheless, it would represent a first step towards the common approach in the Hague Programme as it would provide a platform on which could be built a future EU COI database.

- (9) Following identification of Member State needs as well as official databases used by Member States, the Commission will launch of a Call to Tender through the Community Actions of the ERF for an IT solution to establish a ‘common portal’ in 2006 An effective search facility, the technical feasibility of accessing all Member State COI databases and translation implications should be addressed. Enhancing the functionalities of the existing CIRCA network in order to fulfil this role should be considered.

Common Guidelines on the production of COI

- (10) In parallel, another step would be to agree on guidelines on the production of COI. Experience in the framework of Eurasil has shown that standards vary wildly for the collection and verification of COI among Member States but that there is nevertheless scope for agreement on at least a set of common basic principles. Member States’ experts will meet to discuss the issues involved in the development of common basic principles on COI and how those principles should be applied to all COI produced in a Common European Asylum System. On the basis of the discussions with Eurasil experts and of the experience gained through pilot projects, the Commission will propose common basic principles on the production of COI. Such principles should address issues such as transparency, cross-checking and citation, as well as training of COI researchers and conduct of fact-finding missions. The application of those principles to Member States’ own COI would be the first step towards the longer term objective of harmonised application of COI in line with the Hague Programme objectives.

Addressing translation challenges

- (11) A pragmatic solution needs to be found to the translation difficulties facing Member States. Some Member States’ courts can accept COI that is not translated into the language of the Member State; some insist that everything admitted to the court should be translated into the language of the Member State. There are also practical difficulties for COI practitioners in reading and understanding diverse COI sources. It is not practical or feasible to undertake a comprehensive translation of all relevant COI into English and then into all 20 Community languages. The Eurasil experts would advise on how to prioritise translation needs and on what needs to be translated. If this can be achieved on a small scale, supported through available financial opportunities, to address needs or help ease the burden in those Member States facing the most difficulties then a larger and more ambitious undertaking will have to be examined at the time of the establishment of the EU COI database.
- (12) The Eurasil network will be asked to provide information on translation priorities and the group should put to the Commission by the end of 2006 ideas for possible solutions which could be supported by existing financial opportunities.

The EU COI Database

- (13) In order to achieve the ambitious objective of establishing a common Asylum Procedure, as called for in the Hague Programme, it will be at least necessary to create the conditions for Member States have access not only to the same information but also that that information is produced and applied in a harmonised way. Therefore,

once the portal has been operating and guidelines for the production of COI established, it will be necessary to move to a fully-fledged EU COI database. Even if the operation and use by all Member States of an EU COI database puts it firmly in the timeframe when the EU will be working within a common asylum procedure, given the significant implications of the creation of such database, work to lay down its conditions should start as soon as possible. The Commission intends to carry out a feasibility study into the creation of a Common EU COI database in 2007. Such a study will take into account the experience gained through the development of the common portal.

- (14) There are also obviously serious resource implications and large scale IT and technical requirements for the establishment and upkeep of such a system. The establishment and maintenance of an EU COI database obviously falls very much within the remit of the possible functions of a European support office. The financial and technical implications of such a step will need to be examined as part of the feasibility study on the establishment of the European support office. The legal implications of obliging Member States to use the information contained in the EU COI database will need to be considered as part of the evaluation of the first stage of the Common European Asylum System ahead of the drawing up of the second stage instruments.

Summary of activities necessary for the first step towards joint compilation, assessment and application of information on countries of origin

Objective	Necessary Activities	Method of delivery	Start of activities
Establishment of basic common portal for all main current common COI references	Identification of key databases used by Member States for inclusion in the 'common portal'.	Questionnaire to Eurasil	First semester 2006
	IT solution to establish a 'common portal' through which Member States can access common key databases and other relevant information	Commission to launch a call for tenders under Community actions ERF 2005	First semester 2006
Common Guidelines on COI	Identification of common basic principles for the production of COI	Eurasil experts reporting to the Commission	Second semester 2006
	Proposal for common guidelines on the production of COI	Commission to draw up guidelines	Second semester 2007
Overcoming translation challenges	Assessment of needs and priorities among Member States and formulation of possible solutions	Eurasil experts reporting to the Commission	First semester 2006
	Technical support for translation	Call for tenders under ERF Community actions	Second semester 2006

ANNEX D

ADDRESSING PARTICULAR PRESSURES ON THE ASYLUM SYSTEMS AND RECEPTION CAPACITIES OF EU MEMBER STATES, RESULTING, INTER ALIA, FROM THEIR GEOGRAPHIC LOCATION

Why the EU needs to address particular pressures on the asylum systems and reception capacities of Member States

- (1) Cooperation on asylum among EU Member States is characterised by the recognition that asylum is an international responsibility that cannot be tackled by individual countries acting alone and also in the practical realities of addressing the challenges brought by large arrivals of persons seeking protection in one or more Member States or another. Solidarity between Member States is at the heart of the provisions of the Treaty which address how the EU should manage asylum. Pressure on the asylum capacity of one Member State has inevitable consequences on other Member States.
- (2) Addressing the ‘particular pressures’ on asylum systems and reception capacities which the Hague Programme sets as a priority, calls for a structured response that recognises where shortfalls occur and provides the means to address them. Addressing what are mixed migratory flows i.e. the arrival of persons where some may require protection and some evidently do not, faces Member States with a whole array of challenges. Asylum and the question of who qualifies for international protection, while only part of the wider migration issue, put serious responsibilities on Member States. Because of the obligation to confirm, in every case, whether or not international protection obligations are engaged, resources can become stretched. Member States are required, under the first stage legislation of the Common European Asylum System, *inter alia* to provide accommodation which meets certain standards and to conduct procedures within the relevant minimum standards.
- (3) That is the underlying imperative of the Hague objective on particular pressures – that failure to address situations which seriously stretch one Member States’ reception capacity and asylum systems threatens the application of the Common European Asylum System and the benefits derived from it for all Member States.

Activities to address particular pressures

- (4) It is clear that action taken to help Member States address the effects of particular pressures situations needs to focus on providing resources, either financial or logistical so that Member States can deal with the arrival of large numbers quickly and efficiently and within the standards required by Community law. The activities recommended here address both the financial – through the amendment of current financial instruments to enable Member States to address funds more quickly and the logistical through the pooling of resources so that Member States can rapidly put in place measures which ensure their asylum obligations are fulfilled. One of the tasks of the asylum cooperation network would be the identification of particular pressure contact points for each Member State and coordinate communication and activities

Logistical Support

- (5) The first challenge for Member States faced with the arrival of large numbers of people over a sustained period is one of accommodation. This challenge is often followed by questions of how to organise the processing of individual cases according to individual need and the reason for arrival on EU territory. It is in this area that Member States should work together to share resources and find solutions. The asylum cooperation network should explore the possibilities of setting up expert teams to address collectively the range of challenges faced by Member States in relation to particular pressures situations, without putting into question the individual obligations of Member States in terms of delivery of protection. Such teams should have two potential functions:
- To provide support for the rapid setting-up of reception facilities, including emergency accommodation, transport facilities and medical assistance;
 - To provide support for the processing of asylum applications, through the rapid provision of interpretation services, case working and COI expertise.
- (6) Training needs arising from the possible intervention of expert teams should also be provided for. For example, it may be useful to retain a standing team of experts drawn from several Member States who have received training in the asylum regulations of Member States most likely to be affected by particular pressures situations. The modalities of setting up such expert team should feature as one of the elements of the mandate of the asylum cooperation network.

Financial support

- (7) In the medium to long term it will also be necessary to ensure that funds can be accessed rapidly and with a minimum of bureaucratic process for Member States who face particular pressures situations. It should be possible to support emergency measures aimed at granting appropriate reception conditions, covering basic needs and applying fair and effective asylum procedures in other situations of arrivals of large numbers of persons seeking international protection which place significant and urgent demands on Member States' reception facilities or asylum systems. With that in mind the Commission intend to propose amendments to the ERF to ensure that funds are set aside and can be accessed quickly by Member States in certain situations. It will also be ensured that such arrangements are reflected under the ongoing discussion on the Solidarity Programme. At the same time, it will also be necessary to ensure that full use is made of the financial opportunities provided by the ARGO programme for emergency actions by simplifying and clarifying the conditions for accessing such support.

Longer term options

- (8) A thorough assessment of particular pressures situations which have occurred and the measures which have been taken to address them should also be completed. Under the Community Actions of ERF II for 2005 the Commission will issue a Call for Tender for a survey across all Member States to provide an analysis of past and current situations where individual Member State asylum services and reception capacities have faced particular pressures. This should provide information and analysis on

whether the situations faced were caused by external phenomena, were due to factors in the Member State concerned or were owing to systemic issues in the context of national legislation or the application of the Common European Asylum System.

- (9) The setting up of a network comprising Member State liaison officer/contacts in designated third countries who could report on regional conflict, trafficking activity etc. to the could also be initiated by the asylum cooperation network.

Summary of activities to support Member States in addressing particular pressures

Objective	Necessary Activities	Method of Delivery	Timescale envisaged
Assessing and preparing for particular pressures	Survey of particular pressures and identification of good practice	Call for Tenders under ERF II Community Actions 2005	Second semester 2006
	Identification of particular pressures contact points in MS	Appointed by MS	Second semester 2006
Providing resources to address particular pressures	Amendment of ERF	Proposal from the Commission	First semester 2006
	Streamlining of ARGO procedures	Commission	First semester 2006
	Setting up of an Expert Team to address reception and processing issues.	Modalities and feasibility to be discussed by asylum cooperation network	First semester 2007
	Establishment of network of particular pressures information officers in third countries	Modalities and feasibility to be discussed by asylum cooperation network	First semester 2007