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NOTICE TO MEMBERS

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**DIRECTORATE- GENERAL FOR INTERNAL POLICIES
POLICY DEPARTMENT C: CITIZENS' RIGHTS AND CONSTITUTIONAL
AFFAIRS**

**ROUND TABLE HOSTED BY THE COMMITTEE ON CIVIL LIBERTIES, JUSTICE
AND HOME AFFAIRS WITH THE PARTICIPATION OF THE NATIONAL
PARLIAMENTS AND THE ODYSSEUS ACADEMIC NETWORK**

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TOWARDS A COMMON EUROPEAN ASYLUM SYSTEM:

EXPLANATORY NOTE

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1. **Historical overview: the Tampere (1999) and Stockholm (2009) programmes**

In adopting the Tampere programme, the European Council decided on arrangements for establishing a common European asylum system, which would be implemented in a two-stage process.

The first phase covered the period from 2000 to 2005 and included the setting up of the Eurodac system in 2000, the Dublin Regulation in 2003, the adoption of minimum standards on the reception of asylum seekers and on refugee status in 2003 and minimum standards for procedures for granting and withdrawing refugee status in 2005.

Parliament was only involved in the process of establishing such legal instruments in a consultative capacity during this first stage.

With its The Hague programme, the European Council asked for the instruments and measures to be implemented in the second phase to be submitted to it and Parliament by the end of 2010.

The European Pact on Immigration and Asylum, which the Council adopted in 2008, renewed that demand, setting 2010 as the desired time limit and 2012 as a final deadline.

The Stockholm programme, adopted by the Council in December 2009, stressed that instituting a common European asylum system should remain a priority objective for the EU. 2012 remained the final deadline.

2. **The new 2008-2009 ‘asylum package’**

In late 2008 and early 2009 the Commission submitted an initial set of proposals for the recasting of existing legal instruments and the setting up of a European Asylum Support Office, which the Council had already requested in the European Pact on Immigration and Asylum.

These proposals thus aim to commence the second phase of EU asylum policy with the overall objective of bringing in a common European asylum system.

Parliament, in its new capacity as co-legislator in a codecision procedure with the Council, gave its position on these proposals at first reading on 7 May 2009.

In general terms – and subject to the tabling of a series of amendments – the rapporteurs for the LIBE Committee were satisfied with the Commission’s proposals and with the overall approach adopted¹.

As regards **reception arrangements for asylum seekers**, the amendments adopted by Parliament sought to strengthen the rights of asylum seekers held in detention and to ensure

¹ Minimum reception standards, A. Masip Hidalgo, 2008/0244 (COD), Eurodac, N. Vlad Popa, 2008/0242 (COD), European Support Office, J. Lambert, 2009/0027 (COD), Member State responsible for examining an application, J. Hennis-Plasschaert, 2008/0243 (COD), European Refugee Fund, B. Dührkop Dührkop, 2009/0026 (COD).

that legal assistance was granted free of charge in all cases, that minors could attend school from an early age and that material assistance could be provided in cash or in kind, in keeping with asylum seekers' wishes. Parliament also sought to improve the arrangements for dealing with victims of torture and other vulnerable persons and to strengthen the provisions concerning the legal guardian appointed for unaccompanied minors.

As regards the **criteria for determining the Member State responsible for examining an asylum application**, Parliament proposed a number of amendments designed to strengthen asylum seekers' rights, in particular by ensuring that they receive free legal assistance and by improving the arrangements for the transfer of asylum seekers between Member States.

The most innovative amendment called for the establishment of a mechanism to strengthen solidarity among the Member States. Parliament noted that the Dublin system did not make for fair burden sharing in connection with the examination of asylum applications and that some Member States are particularly exposed to the impact of migratory flows. It called on the Commission to propose – under the codecision procedure – instruments requiring all the Member States to provide effective support to those Member States facing specific and disproportionate pressures on their national asylum systems. These instruments should enter into force by 31 December 2011 at the latest and, at all events, provide for the secondment, under the auspices of the European Asylum Support Office, of civil servants from other Member States to assist those Member States facing specific pressures and for a programme for the transfer of beneficiaries of international protection from Member States facing specific and disproportionate pressures to other Member States, following consultation of the UNHCR.

As regards the 'Eurodac' file the Commission in September 2009 put forward an amended 'Eurodac' proposal for a Regulation¹ 'in order to, on the one hand, take into account the resolution of the European Parliament and the results of negotiations in the Council, and, on the other hand, introduce the possibility for Member States' law enforcement authorities and Europol to access the EURODAC central database for the purposes of prevention, detection and investigation of terrorist offences and other serious criminal offences.'² The "Omnibus" Communication lists the proposal for a Regulation in the list of pending proposals (Annex 4)³. At the same time as the amended proposal the Commission put forward a proposal for a Council Decision on requesting comparisons with EURODAC data by Member States' law enforcement authorities and Europol for law enforcement purposes⁴. This proposal became obsolete by the entry into force of the Treaty of Lisbon.

Parliament has sought, by means of the amendments it has tabled, to clarify the tasks of the **European Asylum Support Office (whose headquarters will be in Valletta, Malta)** in the area of the collection, management and analysis of information, in particular as regards countries of origin, with a view to the establishment of common assessment criteria, to clarify the arrangements for cooperation with the UNHCR and the NGOs concerned, and to lay down more precise rules governing the deployment and role of the asylum support teams. Parliament has been accorded a more important role in the procedure for appointing the

¹ COM(2009)0342.

² (n 2) p.2-3.

³ COM(2009)0665.

⁴ COM(2009)0344.

director of the new agency.

With regard to the issue of burden sharing between Member States, provisions on the European Asylum Support Office's role in activities related to the implementation of instruments and mechanisms for the intra-Community transfer of persons accorded international protection have been approved with the deletion of the qualifying phrase 'on a voluntary basis'. The Commission should propose a binding solidarity mechanism for the resettlement of persons accorded international protection in Member States in consultation with the UNHCR.

Now that the Council has adopted a position (now officially called a Council Position), negotiations towards an agreement with Parliament at a second reading are under way. The procedure is due to be completed before May 2010.

In October 2009 the Commission submitted its two most recent proposals for the recasting of the Directive on **minimum standards on procedures** for granting and withdrawing refugee status and the Directive on minimum standards for qualification for **refugee status and the status of beneficiaries of international protection** and the content of the protection granted. The LIBE Committee appointed two rapporteurs, Sylvie Guillaume and Jean Lambert, to study these proposals. An initial debate was held in committee on 16 March 2010.

3. External studies ordered by the LIBE Committee

In view of the importance of the issues at stake at the beginning of the second phase of EU asylum policy and Parliament's new responsibilities in the setting up of new legal instruments, the LIBE Committee has decided to seek the opinion of independent, high-level experts on the matters at hand.

In 2008 the committee asked its policy department to have two external studies drafted:

- the first, entitled 'What system of burden-sharing between Member States for the reception of asylum seekers?', was published in January 2010¹. This study looks at differences in asylum related costs and pressures between Member States, allowing for a discussion on which of these costs should be shared at European level.
- the second study, entitled 'The establishment of a common European asylum system - report on the application of existing legal instruments and proposals for a new system' has been entrusted to the Odysseus academic network.

As part of the preparation of this study, a conference is planned shortly before completion of the paper to give the experts drafting it the opportunity to present their findings and hear the viewpoints of various stakeholders, organisations and institutions working in the field of asylum and thus add more depth to the final version of the study.

This roundtable will fulfil these objectives.

A decision has been taken to focus on a number of cross-cutting issues with relevance for

¹ PE 419.620.

many of the legal instruments.

The final version of the study will be available as of May 2010.