

COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 18.2.2009
COM(2009) 66 final

2009/0027 (COD)

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Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

establishing a European Asylum Support Office

{SEC(2009) 153}
{SEC(2009) 154}

EXPLANATORY MEMORANDUM

1) Context of the proposal

- **Grounds for and objectives of the proposal**

This proposal forms part of EU efforts to develop a comprehensive asylum policy. Work on the creation of a Common European Asylum System (CEAS) started immediately after the entry into force of the Treaty of Amsterdam in May 1999 on the basis of the guidelines issued by the Tampere European Council of October 1999.

Among the proposals of the 2004 Hague Programme, which is designed to strengthen freedom, security and justice, is that a common asylum area should be created by the establishment of an effective harmonised procedure in accordance with the Union's values and humanitarian tradition. Within this framework, and in support of legislative efforts, the Hague Programme proposed the setting-up of a European support office for all forms of cooperation between Member States relating to the Common European Asylum System (after establishment of a common asylum procedure and on the basis of an evaluation). In the conclusions of its meeting in April 2008 the Justice and Home Affairs Council specifically asked the Commission to present proposals on this matter. In its Policy Plan on Asylum adopted in June 2008 (COM(2008)360) the Commission announced its intention of presenting a legislative proposal for the establishment of such an office. Finally, in late 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."

This proposal seeks to respond to these requests of the Council and the European Council within the framework of the Policy Plan on Asylum adopted by the Commission in June 2008. The Commission proposes to establish a European Asylum Support Office in the institutional form of a regulatory agency; it will be given responsibility for facilitating and strengthening practical cooperation between Member States on asylum and helping to improve implementation of the common asylum system. The possibility of establishing a regulatory agency for asylum was expressly envisaged by the Commission in its communication on regulatory agencies in March 2008 (COM(2008)135), which provides for a moratorium on the creation of new regulatory agencies but excludes from this moratorium the establishment of an agency for asylum.

- **General context**

The Policy Plan on Asylum adopted by the Commission in June 2008 proposes to supplement the existing instruments of the Common European Asylum System. Such ambitious legislative action must, however, be backed up by enhanced practical cooperation on asylum. The significant differences in the 27 Member States' decision-making procedures to deal with applications for international protection do not arise simply from the need for greater legislative harmonisation. They also arise from other, non-legislative factors, including the differing traditions and practices of the Member States and, in particular, from differences in the information on the country of origin of applicants for international protection. This is why strengthening practical cooperation on asylum between the Member States is very important

for achieving convergence between them in the processing of applications for international protection. During the preparatory work on this proposed Regulation, a detailed analysis of these issues was conducted as part of the Commission's impact assessment, which identifies and assesses the various options as well as the preferred option.

- **Existing provisions in the area of the proposal**

The proposed Regulation is part of the *acquis communautaire* on the Common European Asylum System.

- **Consistency with the other policies and objectives of the Union**

This proposal is fully in line with the Policy Plan on Asylum adopted by the Commission in June 2008, which is designed to strengthen asylum legislation with the aim of creating an efficient and fair Common European Asylum System for persons seeking international protection and to underpin this legislation by strengthening practical cooperation among Member States on the many aspects of asylum.

2) Consultation of interested parties and impact assessment

- **Consultation of interested parties**

The Policy Plan on Asylum adopted by the Commission in June 2008, which provides for the adoption by the Commission of a legislative proposal for the establishment of the Support Office, was drawn up on the basis of a Green Paper presented by the Commission in June 2007 with the aim of identifying options for the second stage of the Common European Asylum System. The Green Paper raised specific questions concerning the setting-up of a European Asylum Support Office. In response to the public consultation, 89 contributions were received from a wide range of stakeholders in the field of asylum, including 20 Member States, regional and local authorities, the Committee of the Regions, the European Economic and Social Committee, the UNHCR, academics, political parties and many non-governmental organisations. The responses to the Green Paper showed that the interested parties broadly supported a strengthening of practical cooperation on asylum and the setting-up of a support structure for such activities. The preferred option of the Policy Plan on Asylum specifically includes the establishment of a European Asylum Support Office.

In 2008 the Commission commissioned an external study on the feasibility of establishing a support structure for practical cooperation on asylum. For this study a wide consultation of stakeholders was undertaken, including 10 case studies and interviews with more than 50 parties. Two meetings were held, in April and in June 2008, to enable stakeholders to give their views on the tasks to be assigned to the asylum support structure and how it should be organised in institutional terms. The study was completed at the end of 2008. An impact assessment of this proposal has been prepared by the Commission and is attached hereto.

3) Legal elements of the proposal

- **Summary of the proposed action**

The proposal provides for the establishment of a European Asylum Support Office ("the

Office") as a regulatory agency, which is an autonomous legal entity set up by the legislative authority to help regulate a particular sector at European level and help implement a Community policy. The work of the Agency will help to improve the way Community rules on asylum are implemented and applied throughout the EU.

The agency will not have decision-making powers and will engage in support activities that act as an incentive to practical cooperation on asylum, such as recommendations, referral to scientific authority, networking and pooling of good practice, evaluation of the application and implementation of rules, etc.

The Office's terms of reference will focus on three major tasks: supporting practical cooperation on asylum, supporting Member States under particular pressure and contributing to the implementation of the Common European Asylum System.

A separate chapter is devoted to the coordination by the Office of asylum support teams made up of asylum experts who will provide operational support to Member States subject to strong pressures on their asylum systems.

It will be important to establish close cooperation between the Office and external stakeholders, in particular the UNHCR, which will be fully involved in the work of the Office in view of the expertise possessed by these external stakeholders in the field of asylum.

The decision on the agency's headquarters will be taken by the Heads of State and Government[1].

The Office will be run by a Management Board composed of representatives of the Member States and the Commission, and by an executive committee. The Executive Director of the Office, appointed by the Management Board on a proposal from the Commission, will be in charge of its day-to-day management.

- **Legal basis**

The Office will contribute to the implementation of the Common European Asylum System by developing practical cooperation between Member States on asylum, by providing high- level expertise and by coordinating the necessary measures to assist countries under particular pressure in examining asylum applications. The relevant legal bases are points (1) and (2) of Article 63 and Article 66 of the Treaty establishing the European Community. .

- **Subsidiarity principle**

The subsidiarity principle applies in so far as the proposal does not fall under the exclusive competence of the Community. The objectives of the proposal cannot be sufficiently achieved by the Member States alone and can be better achieved at Community level for a number of reasons. If Member States act alone there is a risk that differences in their treatment of applications for international protection will persist. Given the transnational nature of the issues related to international protection, the Office can help, through the pooling of good practice and organisation of appropriate training, to reduce these differences and discrepancies in the implementation of asylum legislation, which could not be reduced significantly and effectively by national action alone within the framework of practical cooperation as it stands. The proposal therefore complies with the subsidiarity principle.

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[1] See Council conclusions of June 2008 (11018/1/08, Rev. 1) recalling the conclusions of the representatives of the Member States, meeting at Head of State or Government level in Brussels on 13 December 2003 (OJ L 29, 3.2.2004).

- **Proportionality principle**

The proposal complies with the principle of proportionality as the Office will be an agency without decision-making powers whose terms of reference will confine it to activities that support practical cooperation and better implementation of asylum legislation.

- **Choice of instruments**

Proposed instrument(s): Regulation

Any other instrument would be inappropriate because a regulatory agency is always set up by a founding Regulation to provide for its terms of reference and organisation.

4) Budgetary implications

The setting-up of the agency will impact on the Community budget. The financial rules applicable to the Office are derived from Commission Regulation (EC, Euratom) No 2343/2002 of 19 November 2002[2] on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the budget of the European Communities[3]. The Office will be funded from a Community budget line. A financial statement is annexed to the Regulation.

In an effort to streamline expenditure on support for practical cooperation on asylum, and since the European Asylum Support Office will be responsible for a number of tasks that are currently funded under the European Refugee Fund (ERF)[4], some of the budgetary resources currently allocated to the ERF for Community actions should be transferred to the Office so as to avoid having various legal instruments providing parallel financing for similar asylum activities.

On the same lines, with a view to consistency between the various legal instruments in the field of asylum, the Commission will look into the possibility of amending Council Decision 2008/381/EC of 14 May 2008 establishing a European Migration Network[5].

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2 OJ L 357, 31.12.2002, p. 72.

3 OJ L 248, 16.9.2002, p. 1.

4 Decision No 573/2007/EC of the European Parliament and of the Council of 23 May 2007 establishing the European Refugee Fund for the period 2008 to 2013 as part of the General Programme "Solidarity and Management of Migration Flows" and repealing Council Decision 2004/904/EC, OJ L 144, 6.6.2007, p. 1.

5 OJ L 131, 21.5.2008, p. 7.

5) Additional information

- **Presentation of the proposal**

Chapter I - ESTABLISHMENT AND PURPOSE OF THE EUROPEAN ASYLUM SUPPORT OFFICE

Articles 1 and 2

This chapter sets out in general terms the purpose of the Regulation establishing the Office and the tasks of the Office.

Chapter II - TASKS OF THE EUROPEAN ASYLUM SUPPORT OFFICE

The Office's tasks are broken down into three sections: supporting practical cooperation on asylum, supporting Member States under particular pressure and contributing to the implementation of the Common European Asylum System.

Section 1 (Articles 3 to 7): supporting practical cooperation on asylum

These articles set out the functions of the Office regarding exchanges of good practice, information on the country of origin, support for cooperation between Member States under the Dublin Regulation, support for relocation, support for translation and interpreting, support for training, technical support and support in external matters.

Section 2 (Articles 8 to 10): supporting Member States under particular pressure

These articles define what is meant by particular pressure and provide for the gathering and analysis of information and for actions to support Member States under pressure (including an early warning system, initial assessment of asylum requests, speedy establishment of appropriate reception facilities by Member States subject to pressure, coordination of asylum support teams), the operating procedures for which are specified in Chapter 3 of this Regulation.

Section 3 (Articles 11 and 12): contributing to the implementation of the Common European Asylum System

These articles lay down the functions of the Office in relation to the gathering and exchange of information, reports and other Office documents (including the annual report on the asylum situation in the EU and general documents on the implementation of Community instruments in the field of asylum, such as guidelines and operating manuals in particular.

Chapter III - ASYLUM SUPPORT TEAMS

Articles 13 to 21

The Office may organise the necessary technical and operational assistance to a Member State or States subject to particular pressure that so requests, and coordinate the deployment, for a limited time, of one or more asylum support teams on the territory of the requesting Member State for the appropriate period of time.

The asylum support teams provide in particular expertise about interpreting services, information on the countries of origin and knowledge of the handling and management of asylum cases.

Chapter IV - ORGANISATION OF THE OFFICE

Articles 22 to 32

These articles provide for the organisation of the institutional structure of the Office and establish the bodies of the Office and its operating procedures. In particular, the administrative and management structure of the Office takes the form of a Management Board, an Executive Director and staff, an Executive Committee and a Consultative Forum.

The UNHCR will be fully involved in the work of the Office through its participation in various decision-making and working bodies of the Office.

The Member States and the Commission are members of the Management Board. Each Member Sate has one vote. The Commission has 2 votes.

Chapter V - FINANCIAL PROVISIONS

Articles 33 to 37

These articles contain the financial and budgetary provisions applicable to the Office. These are standard provisions in a founding act of a regulatory agency.

Chapter VI - PROVISIONS ON STAFF

Articles 38 and 39

These articles contain the provisions on staff applicable to the Office. These are standard provisions in a founding act of a regulatory agency.

Chapter VII - GENERAL PROVISIONS

Articles 40 to 52

These articles contain the general provisions applicable to the Office. These are standard provisions in a founding act of a regulatory agency.

- **Evaluation**

Article 45 of the Regulation provides for an evaluation of the Office not later than five years after the entry into force of the Regulation. 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. It will 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.

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THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular points (1) and (2) of Article 63 and Article 66 thereof,

Having regard to the proposal from the Commission[6],

Having regard to the opinion of the European Economic and Social Committee[7],

Having regard to the opinion of the Committee of the Regions[8],

Acting in accordance with the procedure laid down in Article 251 of the Treaty,

Whereas:

(1) Under the Hague Programme, Community policy on the Common European Asylum System is designed to establish a common asylum area by means of an effective harmonised procedure in accordance with the Union's values and humanitarian tradition.

(2) Much progress has been made in recent years towards the establishment of the Common European Asylum System thanks to the implementation of common minimum standards. However, there are great disparities between one Member State and another in the granting of protection and the forms that protection takes.

(3) In its Policy Plan on Asylum adopted in June 2008[9] the Commission announced its intention of developing the Common European Asylum System by proposing a revision of existing legal instruments in the interests of a greater harmonisation of standards and by strengthening support for practical cooperation between Member States, notably by presenting a legislative proposal to establish a European Asylum Support Office in order to step up coordination of operational cooperation between Member States so that the common rules are implemented effectively.

(4) In adopting the European Pact on Immigration and Asylum in September 2008[10], the European Council solemnly reiterated that any persecuted foreigner is entitled to obtain

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6 OJ C […], […], p. […].
7 OJ C […], […], p. […].
8 OJ C […], […], p. […].
9 COM(2008) 360.
10 Council document 13440/08 of 24.9.2008.

aid and protection on the territory of the European Union in application of the Geneva Convention of 28 July 1951 relating to the Status of Refugees, as amended by the New York Protocol of 31 January 1967, and other relevant treaties. The European Council also 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".

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

(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.

(7) In order to strengthen and develop these measures, a specific structure to support and coordinate them is needed in the form of a European Asylum Support Office (the Office).

(8) In order to best fulfil its terms of reference, the Office should be independent in technical matters and enjoy legal, administrative and financial autonomy. To that end, the Office should be a Community body having legal personality and exercising the implementing powers conferred upon it by this Regulation.

(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.

(10) The Office should be a European centre of expertise on asylum responsible for facilitating, coordinating and strengthening practical cooperation among Member States on the many aspects of asylum. The Office's terms of reference should be focused on three major tasks, namely supporting practical cooperation on asylum, supporting Member States under particular pressure and contributing to the implementation of the Common European Asylum System.

(11) The Office should not have any direct or indirect powers in the taking of decisions by Member State authorities on individual applications for international protection.

(12) In order to provide speedy and effective operational support to Member States subject to strong pressure on their asylum systems, the Office should coordinate the deployment in the territory of requesting Member States of asylum support teams made up of asylum experts. These teams should in particular provide expertise about interpreting services, information on the countries of origin and knowledge of the handling and management of asylum cases. The arrangements for the asylum support teams should be governed by this Regulation in order to ensure their effective deployment.

(13) The Office should carry out its tasks in conditions which enable it to serve as a reference point by virtue of its independence, the scientific and technical quality of the assistance it provides and the information it disseminates, the transparency of its procedures and operating methods, and its diligence in performing the tasks assigned to it.

(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.

(15) To ensure that it is managed efficiently and expeditiously, the Office should be assisted by an Executive Committee composed of representatives of the Member States with the task of advising the Office's Executive Director and giving opinions to the Management Board.

(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.

(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[11], and the European Union Agency for Fundamental Rights (FRA), established by Regulation (EC) No 168/2007[12]. 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.

(18) To accomplish its purpose, the Office should be open to participation by countries

[11] OJ L 349, 25.11.2004, p. 1.
[12] OJ L 53, 22.2.2007, p. 1.

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.

(19) Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF)[13] should apply without restriction to the Office, which should accede to the Interinstitutional Agreement of 25 May 1999 between the European Parliament, the Council of the European Union and the Commission of the European Communities concerning internal investigations by the European Anti-Fraud Office[14].

(20) 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[15] should apply to the Office.

(21) Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data[16] should apply to the processing of personal data by the Office.

(22) The necessary provisions regarding accommodation for the Office in the headquarters State and the specific rules applicable to all Office staff and members of their families should be laid down in a headquarters agreement. Furthermore, the headquarters State should provide the best possible conditions to ensure the proper functioning of the Office, including schools for children and transport, in order to attract high-quality human resources from as wide a geographical area as possible.

(23) Since the objectives of this Regulation, namely the need to facilitate and strengthen practical cooperation between Member States on asylum and to help improve the implementation of the Common European Asylum System, cannot be sufficiently achieved by the Member States and can therefore be better achieved at Community level, the Community may adopt measures in accordance with the principle of subsidiarity set out in Article 5 of the Treaty. In accordance with the principle of proportionality set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

(24) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark is not taking part in the adoption of this Regulation and therefore is not bound by it nor subject to its application.

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13 OJ L 136, 31.5.1999, p. 1.
14 OJ L 136, 31.5.1999, p. 15.
15 OJ L 145, 31.5.2001, p. 43.
16 OJ L 8, 12.1.2001, p. 1.

(25) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union and should be implemented in accordance with Article 18 on the right of asylum,

HAVE ADOPTED THIS REGULATION:

CHAPTER 1

Chapter I - ESTABLISHMENT AND PURPOSE OF THE EUROPEAN ASYLUM SUPPORT OFFICE

Article 1
Establishment of the European Asylum Support Office

A European Asylum Support Office ("the Office") is hereby established in order to help to improve the implementation of the Common European Asylum System and to strengthen practical cooperation among Member States on asylum.

Article 2
Purpose of the European Asylum Support Office

1. The Office shall facilitate, coordinate and strengthen practical cooperation among Member States on the many aspects of asylum and help to improve the implementation of the Common European Asylum System, including its external dimensions.

2. The Office shall provide operational support to Member States subject to strong pressure on their asylum systems, including the coordination of asylum support teams made up of asylum experts.

3. The Office shall provide scientific and technical assistance for Community policy-making and legislation in all areas having a direct or indirect impact on asylum so that it is in a position to lend its full support to practical cooperation on asylum and best carry out its tasks. It shall be an independent source of information on all issues in these areas.

4. The Office shall carry out its tasks in conditions which enable it to serve as a reference point by virtue of its independence, the scientific and technical quality of the assistance it provides and the information it disseminates, the transparency of its operating procedures and methods, its diligence in performing the tasks assigned to it, and the information technology support needed to fulfil its remit.

5. The Office shall carry out its tasks without prejudice to those assigned to the European Union Agency for Fundamental Rights, and shall work closely with it and with the UNHCR.

CHAPTER 2

TASKS OF THE EUROPEAN ASYLUM SUPPORT OFFICE

Section 1
Supporting practical cooperation on asylum

Article 3
Pooling information and best practice

The Office shall organise, promote and coordinate all activities enabling the exchanging of information and the identifying and pooling of good practice in asylum matters between the Member States.

Article 4
Country-of-origin information

The Office shall organise, promote and coordinate activities relating to information on countries of origin, in particular:

(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;

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

(c) the development of a common format and a common methodology for entering, verifying and using information on the country of origin;

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

Article 5
Supporting intra-Community transfers of those accorded international protection

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.

Article 6
Support for training

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.

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

3. The training offered by the Office may be general, specific or thematic.

4. Specific training activities shall include:

   (a) issues related to the handling of asylum applications from minors and vulnerable persons with specific needs;

   (b) identification of the signs and symptoms of torture;

   (c) interview techniques;

   (d) the use of expert medical and legal reports in asylum procedures;

   (e) issues relating to the production and use of information on countries of origin;

   (f) specific legal and case-law issues.

5. The training offered shall be designed to provide the persons targeted with high-quality training, and shall identify key principles and best practices with a view to greater convergence of practice, administrative methods and national court decisions.

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

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

Article 7
Support for the external dimensions of asylum policy

As regards external matters the Office shall, in agreement with the Commission, coordinate the exchange of information and all other action taken on issues arising from the implementation of instruments and mechanisms relating to the external dimension of the Common European Asylum System.

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

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.

Section 2
Support for Member States under particular pressure

Article 8
Particular pressure

The Office shall coordinate and support common action to assist Member States under particular pressure, in particular pressure arising from their geographical or demographic situations or situations characterised by sudden arrivals of large numbers of third-country nationals who may be in need of international protection.

Article 9
Gathering and analysing information

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[17].

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.

Article 10
Support for the Member States

The Office shall coordinate action to support Member States subject to pressure, including

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

(b) coordinating action to help Member States under pressure to carry out an initial analysis of asylum applications under examination by the competent national authorities;

(c) coordinating action designed to ensure that appropriate reception facilities can be speedily established by the Member State under pressure, in particular emergency accommodation, transport and medical assistance;

(d) coordinating the asylum support teams, the operating arrangements for which

[17] COM(2008) 820.

are set out in Chapter 3.

Section 3
Contribution to the implementation of the Common European Asylum System

Article 11
Gathering and exchanging information

1. The Office shall organise, coordinate and promote the exchange of information between national asylum authorities and between the Commission and national asylum authorities concerning the implementation of all relevant instruments of the Community asylum *acquis*. To this end, it may create factual, legal and case-law databases on national, European and international asylum instruments.

2. In particular, the Office shall gather the following information:

   (a) information on the processing of applications for international protection by national administrations and authorities;

   (b) information on national legislation and legislative developments in the field of asylum, including case law.

Article 12
Reports and other Office documents

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.

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.

CHAPTER 3

Asylum support teams

Article 13
Coordination

The Office may organise the necessary technical and operational assistance to a Member State or States subject to particular pressure that so requests, and coordinate the deployment, for a

limited time, of one or more asylum support teams in the territory of the requesting Member State for the appropriate period of time. In particular, it may:

(a) assist on matters of coordination between two or more Member States with a view to tackling problems;

(b) deploy its experts to support the competent national authorities of the Member State or States concerned for the time necessary.

Article 14
Technical assistance

The asylum support teams shall provide in particular expertise about interpreting services, information on the countries of origin and knowledge of the handling and management of asylum cases within the framework of the activities to support Member States referred to in Article 10.

Article 15
Asylum Intervention Pool

1. On a proposal by the Executive Director of the Office, the Management Board shall decide by a majority of three quarters of its members on the profiles and the overall number of the experts to be made available for the asylum support teams (Asylum Intervention Pool). The same procedure shall apply with regard to any subsequent changes in the profiles and the overall number of experts of the Asylum Intervention Pool.

2. Member States shall contribute to the Asylum Intervention Pool via a national expert pool on the basis of defined profiles and propose experts corresponding to the required profiles.

Article 16
Deployment

1. Member States shall, at the request of the Office, immediately communicate the number, names and profiles of experts from their national pool who can be made available within five days to join an asylum support team. Member States shall make experts available for deployment at the Office's request unless they are faced with an exceptional situation substantially affecting the discharge of national duties. The home Member State shall retain its autonomy in the selection of staff and the duration of their deployment.

2. When determining the composition of an asylum support team, the Executive Director of the Office shall take into account the particular circumstances confronting the requesting Member State. The asylum support team shall be constituted in accordance with the operating plan referred to in Article 18.

Article 17
Procedure for deciding on deployment

1. A request for deployment of asylum support teams in accordance with Article 16(1) shall include a description of the situation, any objectives and estimated deployment requirements. If required, the Executive Director may send Office experts to assess the situation in the requesting Member State.

2. The Executive Director shall immediately notify the Executive Committee of any deployment of asylum support teams.

3. The Executive Director shall take a decision on the request for deployment of asylum support teams as soon as possible and no later than five working days from the date of receipt of the request. The Executive Director shall notify the requesting Member State simultaneously and the Executive Committee in writing of the decision. He shall state the main reasons for it.

4. If the Executive Director decides to deploy one or more asylum support teams, an operating plan shall immediately be drawn up by the Office and the requesting Member State in accordance with Article 18.

5. As soon as this plan has been agreed, the Executive Director shall inform the Member States providing the experts to be deployed of the number and profiles required. This information shall be provided, in writing, to the national contact points referred to in Article 19 and shall specify the scheduled date for deployment. A copy of the operating plan shall also be sent to them.

6. If the Executive Director is absent or indisposed, the decisions on the deployment of the teams shall be taken by the head of unit assuming his/her functions.

Article 18
Operating plan

1. The Executive Director and the requesting Member State shall agree on an operating plan setting out in detail the conditions for deployment of the asylum support teams. The operating plan shall include:

   (a) description of the situation, with the modus operandi and objectives of the deployment, including the operational objective;

   (b) the forecast duration of the teams' deployment;

   (c) the geographical area of responsibility in the requesting Member State where the teams will be deployed;

   (d) a description of the tasks and special instructions for members of the teams, including databases they are authorised to consult and the equipment they may carry in the host Member State;

(e) the composition of the teams.

2. Any amendments to or adaptations of the operating plan shall require the agreement of both the Executive Director and the requesting Member State. A copy of the amended or adapted operating plan shall be sent immediately by the Office to the participating Member States.

Article 19
National contact point

Each Member State shall designate a national contact point for communication with the Office on all matters pertaining to the asylum support teams. The national contact point shall be reachable at all times.

Article 20
Community contact point

1. The Executive Director shall designate one or more Office experts to act as a Community contact point for coordination. The Executive Director shall notify the host Member State of such designations.

2. The Community contact point shall act on behalf of the Office in all aspects of the deployment of asylum support teams. In particular, it shall:

(a) act as an interface between the Office and the host Member State;

(b) act as an interface between the Office and members of the asylum support teams, providing assistance, on behalf of the Office, on all issues relating to the conditions of the teams' deployment;

(c) monitor the correct implementation of the operating plan;

(d) report to the Office on all aspects of the asylum support teams' deployment.

3. The Executive Director of the Office may authorise the contact point to assist in resolving any disputes concerning the implementation of the operating plan and the deployment of asylum support teams.

4. In discharging his/her duties, the Community contact point shall take instructions only from the Office.

Article 21
Costs

The Office shall fully cover the following costs incurred by Member States in making their experts available for deployment to asylum support teams:

(a) travel costs from the home Member State to the host Member State and from the host Member State to the home Member State;

(b) cost of vaccinations;

(c) cost of special insurance cover required;

(d) cost of health care;

(e) daily subsistence allowances, including accommodation costs;

(f) cost of the Office's technical equipment.

CHAPTER 4

ORGANISATION OF THE OFFICE

Article 22
Bodies of the Office

The administrative and management structure of the Office shall comprise:

(a) a Management Board;

(b) an Executive Director and his/her staff;

(c) an Executive Committee;

(d) a Consultative Forum.

Article 23
Composition of the Management Board

1. Each Member State shall appoint one member to the Administrative Board and the Commission two members.

2. Each member of the Management Board may be represented or accompanied by an alternate; when accompanying a member, the alternate member shall attend without having the right to vote.

3. Management Board members shall be appointed on the basis of their experience and high degree of expertise in the field of asylum.

4. The UNHCR shall be a non-voting member of the Management Board.

5. The term of office of members of the Management Board shall be three years. This term shall be renewable. On the expiry of their term of office or in the event of their resignation, members shall remain in office until their appointments are renewed or until they are replaced.

Article 24
Chairmanship of the Management Board

1. The Management Board shall elect a Chairperson and a Deputy Chairperson from among its members. The Deputy Chairperson shall automatically replace the Chairperson if he/she is prevented from attending to his/her duties.

2. The term of office of the Chairperson and that of the Deputy Chairperson shall last for three years and may be renewed only once. If, however, their membership of the Management Board ends at any time during their term of office as Chairperson or Deputy Chairperson, their term of office shall automatically expire on that date also.

Article 25
Meetings of the Management Board

1. The meetings of the Management Board shall be convened by its Chairperson. The Executive Director of the Office shall take part in the meetings.

2. The Management Board shall hold at least two ordinary meetings a year. In addition, it shall meet on the initiative of its Chairperson or at the request of one third of its members. The Chairperson shall convene additional meetings of the Management Board at the request of at least one third of its members.

3. The Management Board may invite any person whose opinion may be of interest to attend its meetings as an observer.

4. The members of the Management Board may, subject to the provisions of its rules of procedure, be assisted by advisers or experts.

5. The secretariat for the Management Board shall be provided by the Office.

Article 26
Voting

1. The Management Board shall take its decisions by a majority of two thirds of all members with voting rights. Each member entitled to vote shall have one vote. In the absence of a member, his/her alternate shall be entitled to exercise his/her right to vote.

2. The Executive Director of the Office shall not vote.

3. The Chairperson shall take part in the voting.

4. Member States that do not fully participate in the *acquis communautaire* in the field of asylum shall not vote when the Management Board is called on to take decisions falling within the management powers of the Office, as laid down in Article 27, on the basis of instruments to which they do not adhere.

5. The Management Board's rules of procedure shall establish more detailed voting arrangements, in particular the circumstances in which a member may act on behalf of another member, plus any quorum requirements, where need be.

Article 27
Functions of the Management Board

The Management Board shall ensure that the Office performs the tasks assigned to it. It shall be the Office's planning and monitoring body. In particular, it shall:

(a) adopt its rules of procedure;

(b) appoint the Executive Director as laid down in Article 28; exercise disciplinary authority over the Executive Director and, where necessary, suspend or dismiss him;

(c) adopt the annual general report on the Office's activities and forward it by 15 June of the following year at the latest to the European Parliament, the Council, the Commission and the European Court of Auditors; the general report shall be made public;

(d) before 30 September each year, on the basis of a draft put forward by the Office's Executive Director and after receiving the opinion of the Commission, adopt, by a majority of three quarters of its members with the right to vote, the Office's work programme for the coming year and forward it to the European Parliament, the Council and the Commission; this work programme shall be adopted in accordance with the annual Community budgetary procedure and the Community legislative work programme in the area of asylum;

(e) exercise its responsibilities in respect of the Office's budget as laid down in Chapter 5;

(f) adopt the detailed rules for applying Regulation (EC) No 1049/2001 in accordance with Article 42 of this Regulation;

(g) establish the rules governing the use of languages by the Office in accordance with Article 41 of this Regulation;

(h) establish the Office's organisational structure and adopt its staff policy in accordance with Article 38;

(i) adopt, having requested the opinion of the Commission, the multiannual staff policy plan;

(j) take all decisions for the purpose of fulfilling the Office's terms of reference as laid down in this Regulation;

(k) take all decisions on the establishment and, where necessary, the development of the information systems provided for in this Regulation, including the information portal referred to in point (b) of Article 4;

(l) take all decisions on the establishment and, where necessary, modification of the Office's internal structures;

(m) exercise disciplinary authority over the Executive Director;

(n) adopt its rules of procedure on the basis of a draft submitted by the Executive Director and after receiving the opinion of the Commission;

Article 28
Appointment of the Executive Director

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.

   In the course of the last nine months of this five-year period the Commission shall carry out an evaluation focusing on:

   - the performance of the Executive Director; and

   - the Office's tasks and requirements in coming years.

2. The Management Board, acting on a proposal from the Commission and taking into account the evaluation report, may extend the term of office of the Director once for not more than three years but only in cases where justified by the purpose and requirements of the Office.

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.

Article 29
Functions of the Executive Director

1. The Office shall be managed by its Executive Director, who shall be independent in the performance of his/her duties. The Executive Director shall be accountable to the Management Board for his/her activities.

2. Without prejudice to the powers of the Commission or the Management Board, the Executive Director shall neither seek nor take instructions from any government or from any other body.

3. The European Parliament and the Council may invite the Executive Director to report on the performance of his/her tasks.

4. The Executive Director shall be the legal representative of the Office.

5. The Executive Director may be assisted by one or more heads of unit. If the Executive Director is absent or indisposed, a head of unit shall take his/her place.

6. The Executive Director shall be responsible for:

(a) the day-to-day administration of the Office;

(b) establishing the Office's work programmes, having received the opinion of the Commission;

(c) implementing the work programmes and decisions adopted by the Management Board;

(d) drafting reports on the countries of origin as provided for in point (d) of Article 4;

(e) preparing the Office's draft financial regulation for adoption by the Management Board under Article 37, and its implementing rules.

(f) the preparation of the Office's draft statement of estimates of revenue and expenditure and of execution of its budget;

(g) exercising the powers laid down in Article 38 in respect of Office staff;

(h) all staff matters; taking all decisions on the management of the information systems provided for in this Regulation, including the information portal referred to in point (b) of Article 4;

(i) taking all decisions on the management of the Office's internal structures.

Article 30
Executive Committee

1. In the interests of speed and efficiency, the Office shall set up an Executive Committee with eight members appointed from among the members of the Management Board.

2. The Commission shall be an *ex officio* member of the Executive Committee. The Management Board of the Office shall lay down the rules applicable to the appointment of other members of the Executive Committee.

3. The Executive Committee shall meet regularly at the invitation of the Executive Director, or at the request of at least one third of its members at least four times a year. Its operating procedures shall be laid down in the Office's rules of procedure and be made public.

4. The term of office of members of the Executive Committee shall be the same as that of members of the Management Board.

5. The Executive Committee shall convene when necessary for meetings on specific topics.

6. The Executive Committee shall be responsible for advising the Office's Executive Director and issuing opinions to the Management Board, either at the Board's request or on its own initiative, on the Office's work programme and all its activities and on any occasion where the Office must take quick decisions, especially concerning the sending of asylum support teams to Member States under particular pressure in accordance with the provisions of Chapter 3.

7. The Office shall provide the technical and logistic support necessary for the Executive Committee and provide the secretariat for its meetings.

8. At the request of the Executive Committee, UNHCR representatives may attend meetings of the Executive Committee without the right to vote.

9. The Executive Committee may invite any person whose opinion may be of interest to attend its meetings as an observer.

Article 31
Working parties

1. As part of its terms of reference as laid down in this Regulation, the Office may set up working groups composed of experts from competent Member State authorities operating in the field of asylum, including judges. Experts may be replaced by alternates, appointed at the same time.

2. The Commission shall take part in the working parties as of right. UNHCR representatives may attend all or part of the meetings of the Office's working parties, depending on the nature of the issues under discussion.

3. The working parties may invite any person whose opinion may be of interest to attend meetings, including representatives of NGOs working in the field of asylum.

Article 32
Consultative Forum

1. The Office shall cooperate closely with NGOs and civil society institutions operating in the field of asylum policy at national, European or international level and shall set up a Consultative Forum for this purpose.

2. The Consultative Forum shall constitute a mechanism for the exchange of information and pooling of knowledge. It shall ensure there is close cooperation between the Office and stakeholders, and provide expertise and advice on asylum matters.

3. The Consultative Forum shall be open to all competent stakeholders in accordance with paragraph 1. The UNHCR shall be a member of the Consultative Forum *ex officio*.

4. The Consultative Forum shall be responsible in particular for:

(a) making suggestions to the Management Board on the annual work programme to be adopted under point (d) of Article 27;

(b) providing feedback to the Management Board and suggesting measures as follow-up to the annual report referred to in point (c) of Article 27 and the annual report on the asylum situation in the European Union referred to in Article 12(1); and

(c) communicating conclusions and recommendations of conferences, seminars and meetings relevant to the work of the Office to the Executive Director and the Executive Committee.

5. The coordination of the Consultative Forum shall be under the authority of the Executive Director.

6. The Consultative Forum shall meet at least twice a year.

CHAPTER 5

FINANCIAL PROVISIONS

Article 33
Budget

1. Estimates of all the revenue and expenditure of the Office shall be prepared for each financial year, corresponding to the calendar year, and shall be shown in the Office's budget.

2. The Office's budget shall be balanced in terms of revenue and of expenditure.

3. Without prejudice to other resources, the Office's revenue shall comprise:

(a) a contribution from the Community entered in the general budget of the European Union;

(b) any voluntary contribution from the Member States;

(c) charges for publications, training and any service provided by the Office.

4. The expenditure of the Office shall include staff remuneration, administrative and infrastructure expenses, operating costs, and expenditure relating to contracts or agreements concluded by the Office.

Article 34
Establishment of the budget

1. Each year the Executive Director shall draw up a draft statement of estimates of the Office's revenue and expenditure for the following year together, including the establishment plan, and forward it to the Management Board.

2. The Management Board shall, on the basis of this draft, produce an estimate of the Office's revenue and expenditure for the following financial year.

3. The draft statement of estimates of the Office's revenue and expenditure shall be forwarded to the Commission by 10 February at the latest. The final version of this estimate, which shall include a draft establishment plan, shall be forwarded by the Management Board to the Commission by 31 March at the latest.

4. The statement of estimates shall be forwarded by the Commission to the European Parliament and the Council (the "budgetary authority") together with the preliminary draft general budget of the European Union.

5. On the basis of the statement of estimates, the Commission shall enter in the preliminary draft general budget of the European Union the estimates it considers necessary for the establishment plan and the amount of the grant to be charged to the general budget, which it shall place before the budgetary authority in accordance with Article 272 of the Treaty.

6. The budgetary authority shall authorise the appropriations for the Office's grant.

7. The budgetary authority shall adopt the Office's establishment plan.

8. The Office's budget shall be adopted by the Management Board. It shall become final following final adoption of the general budget of the European Union. Where necessary, it shall be adjusted accordingly.

9. The Management Board shall, as soon as possible, notify the budgetary authority of its intention to implement any project which may have significant financial implications for the funding of the budget, in particular any projects relating to property such as the rental or purchase of buildings. It shall inform the Commission accordingly.

10. Where a branch of the budgetary authority has notified its intention to deliver an opinion, it shall forward its opinion to the Management Board within a period of six weeks from the date of the project's notification.

Article 35
Implementation of the budget

1. The Executive Director shall implement the Office's budget.

2. Each year the Executive Director shall forward to the budgetary authority all information relevant to the findings of the evaluation procedures.

Article 36

Presentation of accounts and discharge

1. By 1 March at the latest following each financial year, the Office's accounting officer shall communicate the provisional accounts to the Commission's Accounting Officer together with a report on the budgetary and financial management for that financial year. The Commission's Accounting Officer shall consolidate the provisional accounts of the institutions and decentralised bodies in accordance with Article 128 of Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities[18].

2. By 31 March at the latest following each financial year, the Commission's accounting officer shall forward the Office's provisional accounts to the Court of Auditors, together with a report on the budgetary and financial management for that financial year. The report on the budgetary and financial management for that financial year shall also be forwarded to the European Parliament and the Council.

3. On receipt of the Court of Auditors' observations on the Office's provisional accounts pursuant to Article 129 of Regulation (EC, Euratom) No 1605/2002, the Executive Director shall draw up the Office's final accounts under his/her own responsibility and submit them to the Management Board for an opinion.

4. The Management Board shall deliver an opinion on the Office's final accounts.

5. The Executive Director shall, by 1 July at the latest following each financial year, forward the final accounts to the European Parliament, the Council, the Commission and the Court of Auditors, together with the Management Board's opinion.

6. The final accounts shall be published.

7. The Executive Director shall send the Court of Auditors a reply to its observations by 30 September at the latest. He/she shall also send this reply to the Management Board.

8. The Executive Director shall submit to the European Parliament, at the latter's request, any information required for the smooth application of the discharge procedure for the financial year in question, as laid down in Article 146(3) of Regulation (EC, Euratom) No 1605/2002.

9. On a recommendation from the Council acting by a qualified majority, the European Parliament, shall, before 15 May of year N + 2, give a discharge to the Executive Director in respect of the implementation of the budget for year N.

Article 37
Financial regulation

The financial regulation applicable to the Office shall be adopted by the Management Board after consultation with the Commission. It may not depart from Commission Regulation (EC, Euratom) No 2343/2002 of 19 November 2002[19] on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on

[18] OJ L 248, 16.9.2002, p. 1.

the Financial Regulation applicable to the general budget of the European Communities[20], unless such departure is specifically required for the Office's operation and the Commission has given its prior consent.

CHAPTER 6

STAFF PROVISIONS

Article 38
Staff

1. The Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities and the rules adopted jointly by the European Community institutions for the purpose of applying these Staff Regulations and Conditions of Employment shall apply to the staff of the Office, including the Executive Director.

2. The Management Board shall, in agreement with the Commission, adopt the necessary implementing measures referred to in Article 110 of the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities.

3. The powers conferred on the appointing authority by the Staff Regulations and on the authority entitled to conclude contracts by the Conditions of Employment of Other Servants shall be exercised by the Office in respect of its own staff.

4. The Management Board may adopt provisions to allow national experts from Member States to be employed on secondment to the Office.

Article 39
Privileges and immunities

The Protocol on the Privileges and Immunities of the European Communities shall apply to the Office.

CHAPTER 7

GENERAL PROVISIONS

Article 40
Legal status

[19] Regulation (EC, Euratom) No 2343/2002 (OJ L 357, 31.12.2002, p. 72), as amended by Regulation (EC, Euratom) No 652/2008 (OJ L 181, 10.7.2008, p. 23).

[20] OJ L 248, 16.9.2002, p. 1.

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

2. In each of the Member States the Office shall enjoy the most extensive legal capacity accorded to legal persons under their laws. It may, in particular, acquire and dispose of movable and immovable property and be a party to legal proceedings.

3. The Office shall be represented by its Executive Director.

4. The headquarters of the Office shall be located in […]. ..

Article 41
Language arrangements

1. The provisions laid down in Regulation No 1 of 15 April 1958 determining the languages to be used in the European Economic Community shall apply to the Office[21].

2. Without prejudice to decisions taken on the basis of Article 290 of the Treaty, the annual general report on the Office's activities and the annual work programme referred to in points (c) and (d) of Article 27 shall be produced in all the official languages of the Community.

3. The translation services required for the functioning of the Office shall be provided by the Translation Centre of the bodies of the European Union.

4. The Management Board shall establish the practical arrangements for the implementation of the language arrangements.

Article 42
Access to documents

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[22] shall apply to documents held by the Office.

2. The Management Board shall adopt the arrangements for implementing Regulation (EC) No 1049/2001 within six months of entry into force of this Regulation.

3. Decisions taken by the Office under Article 8 of Regulation (EC) No 1049/2001 may form the subject of a complaint to the Ombudsman or of an action before the Court of Justice of the European Communities, under the conditions laid down in Articles 195 and 230 of the Treaty respectively.

4. The processing of data of a personal nature by the Office shall be subject to the provisions of Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free

[21] OJ 17, 6.10.1958, p. 385.
[22] OJ L 145, 31.5.2001, p. 43.

movement of such data[23].

Article 43
Security rules on the protection of classified information and non-classified sensitive information

1. The Office shall apply the security principles contained in Commission Decision 2001/844/EC, ECSC, Euratom of 29 November 2001 amending its internal rules of procedure. This shall cover, inter alia, provisions for the exchange, processing and storage of classified information.

2. The Office shall also apply the security principles relating to the processing of non-classified sensitive information as adopted and implemented by the European Commission.

Article 44
Provisions on liability

1. The Office's contractual liability shall be governed by the law applicable to the contract in question.

2. The Court of Justice of the European Communities shall have jurisdiction to give judgment pursuant to any arbitration clause contained in a contract concluded by the Office.

3. In the case of non-contractual liability, the Office shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by its departments or by its staff in the performance of their duties.

4. The Court of Justice of the European Communities shall have jurisdiction in disputes over compensation for damages referred to in paragraph 3.

5. The personal liability of its staff towards the Office shall be governed by the provisions laid down in the Staff Regulations or Conditions of Employment applicable to them.

Article 45
Evaluation and review

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

[23] OJ L 8, 12.1.2001, p. 1.

tasks. The evaluation will take into account the views of stakeholders, at both Community and national levels.

2. The Management Board, in agreement with the Commission, shall decide the timing of future evaluations, taking into account the findings of the evaluation report referred to in paragraph 1.

Article 46
Administrative controls

The activities of the Office shall be subject to the supervision of the Ombudsman in accordance with Article 195 of the Treaty.

Article 47
Cooperation with third and associate countries

1. The Office shall be open to the participation of countries which have concluded agreements with the European Community by virtue of which they have adopted and applied Community legislation in the field covered by this Regulation. Arrangements shall be made under the relevant provisions of those agreements, specifying in particular the nature, extent and manner in which those countries are to participate in the Office's work. Such arrangements shall include provisions relating to participation in initiatives undertaken by the Office, financial contributions and staff. As regards staff matters, those agreements shall, in any event, conform to the Staff Regulations of officials of the European Communities and the Conditions of Employment of other servants of the European Communities.

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.

Article 48
Cooperation with the UNHCR

The Office shall cooperate with the UNHCR in the areas governed by this Regulation within the framework of working arrangements concluded with it.

The Office may make grants to the UNHCR. These grants shall be made in order to finance activities that will enable the Office to avail itself of the UNHCR's expertise in asylum matters on a stable and sustainable footing. They shall form part of the special cooperation relations established between the Office and the UNHCR in accordance with this Article and with Articles 2(5), 9(1), 23(4), 30(8), 31(2) and 32(3). In accordance with Article 75 of Regulation (EC, Euratom) No 2343/2002, the relevant provisions of Regulation (EC, Euratom) No 1605/2002 and its implementing rules shall apply.

Article 49
Cooperation with Frontex, FRA and other Community bodies and with international organisations

The Office shall cooperate with Community bodies having activities related to its field of activity, and 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) and the European Union Agency for Fundamental Rights (FRA) and with international organisations competent in matters covered by this Regulation, within the framework of working arrangements concluded with those bodies, in accordance with the EC Treaty and the provisions on the competence of those bodies.

Cooperation shall create synergies between the bodies concerned and prevent any duplication of effort in the work carried out pursuant to their terms of reference.

Article 50
Headquarters agreement and operating conditions

The necessary arrangements concerning the accommodation to be provided for Office in the host State and the facilities to be made available by that State together with the specific rules applicable in the Office's host State to the Executive Director, members of the Management Board, Office staff and members of their families shall be laid down in a headquarters agreement between the Office and the host State concluded once the Management Board's approval is obtained. The headquarters State should provide the best possible conditions to ensure the proper functioning of the Office, including multilingual, European-oriented schooling and appropriate transport connections.

Article 51
Start of the Office's activities

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

The Commission shall be responsible for the establishment and initial operation of the Office until it has the operational capacity to implement its own budget.

To this end:

– until such time as the Executive Director of the Office takes up his/her duties following his/her appointment by the Management Board in accordance with Article 28 of this Regulation, a Commission official may act as interim Director and exercise the functions assigned to the Office's Executive Director;

– Commission officials may carry out the tasks assigned to the Office under the responsibility of its interim Director or Executive Director.

The interim Director may authorise all payments covered by appropriations entered in the Office's budget after approval by the Management Board and may conclude contracts, including staff contracts, following the adoption of the Office's establishment plan.

Article 52
Entry into force

This Regulation shall enter into force on the […] day following that of its publication in the Official Journal of the European Union.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Council
The President

LEGISLATIVE FINANCIAL STATEMENT

1. NAME OF THE PROPOSAL:

Proposal for a Council Regulation establishing a European Asylum Support Office

2. ABM/ABB FRAMEWORK

Policy area concerned: Area of freedom, security and justice (Title 18)

Associated activity: Migration Flows — Common immigration and asylum policies (Chapter 18.03)

3. BUDGET LINES:

3.1. Budget lines (operational lines and related technical and administrative assistance lines (ex-BA lines)), including headings:

Financial framework 2007-2013: Heading 3 A

Chapter 18.03, Migration flows, common immigration and asylum policies:

- creation of an Article 18 03 XX "European Asylum Support Office"

- creation of an Item 18 03 XX XX "European Asylum Support Office" – grant under Titles 1 and 2

- creation of an Item 18 03 XX XX XX "European Asylum Support Office" – grant under Title 3

The choice of article and items under Chapter 18 03 will be determined under the budget procedure for 2010.

3.2. Duration of the action and of the financial impact:

It is proposed to establish the agency from the 2010 budget year.

Work on the establishment of the agency will be started by the Commission in 2009 and be financed from existing financial instrument.

3.3. Budgetary characteristics:

Budget line	Type of expenditure		New	EFTA contribution	Contributions from candidate countries	Heading in Financial Perspective
See Section 3.1	NCE	DA[24]	YES	NO	NO	**3A**

[24] Differentiated appropriations.

4. SUMMARY OF RESOURCES

4.1. Financial resources

4.1.1. Summary of commitment appropriations (CA) and payment appropriations (PA)

EUR million (to 3 decimal places)

Type of expenditure	Section No		Year 2010	2011	2012	2013	n + 4	n +5 and later	Total
Operational expenditure[25]									
Commitment appropriations (CA)	8.1.	a	5,25	8	12	15			40,25
Payment appropriations (PA)		b	5,25	8	12	15			40,25
Administrative expenditure within reference amount[26]									
Technical & administrative assistance (NDA)	8.2.4.	c							
TOTAL REFERENCE AMOUNT									
Commitment appropriations		a + c	**5,25**	**8**	**12**	**15**			**40,25**
Payment appropriations		b + c	**5,25**	**8**	**12**	**15**			**40,25**
Administrative expenditure <u>not</u> included in reference amount[27]									
Human resources and associated costs (NDA)	8.2.5.	d	0,976	0,976	0,976	0,610			3,538
Administrative costs, other than human resources and associated costs, not included in reference amount (NDA)	8.2.6.	e	0,010	0,025	0,025	0,025			0,085
Total indicative financial cost of intervention									

[25] Expenditure that does not fall under Chapter xx 01 of the Title xx concerned.

[26] Expenditure within Article xx 01 04 of Title xx.

[27] Expenditure under Chapter xx 01 other than under Articles xx 01 04 and xx 01 05.

TOTAL CA, including cost of human resources		a + c + d + e	6,236	9,001	13,001	15,635			43,873
TOTAL PA, including cost of human resources		b + c + d + e	6,236	9,001	13,001	15,635			43,873

Cofinancing details

If the proposal involves cofinancing by Member States or other bodies (please specify which), an estimate of the level of this cofinancing should be indicated in the table below (additional lines may be added if it is proposed that more than one body participate in the cofinancing):

EUR million (to 3 decimal places)

Cofinancing body		Year n	n + 1	n + 2	n + 3	n + 4	n +5 and later	Total
……	f							
TOTAL CA including cofinancing	a + c + d + e + f							

4.1.2. Compatibility with financial programming

☒ Proposal is compatible with existing financial programming.

☐ Proposal will entail reprogramming of the relevant heading in the financial perspective.

☐ Proposal may require application of the provisions of the Interinstitutional Agreement (i.e. flexibility instrument or review of the financial perspective)[28].

4.1.3. Financial impact on revenue

☒ Proposal has no financial implications on revenue

☐ Proposal has financial impact – the effect on revenue is as follows:

EUR million (to 1 decimal place)

	Prior to action	Situation following action
	[Year n–1]	

[28] See points 19 and 24 of the Interinstitutional Agreement.

Budget line	Revenue		[Year n]	[n + 1]	[n + 2]	[n + 3]	[n + 4]	[n + 5][29]
	(a) Revenue in absolute terms							
	(b) Change in revenue	*Δ*						

4.2. Human resources FTE (including officials, temporary and external staff) – see detail under point 8.2.1.

Annual requirements	2010	2011	2012	2013 and later
Total number of human resources	8	8	8	5

5. CHARACTERISTICS AND OBJECTIVES

5.1. Need to be met in the short or long term

The Office will be responsible for facilitating, coordinating and strengthening practical cooperation among Member States, and between Member States and the Commission, on the many aspects of asylum and for helping to improve the implementation of the Common European asylum System, including its external dimensions.

Pursuant to the express request of the European Council of September 2008, the Office should be operational in 2010 after adoption of the founding act by the legislative authority in 2009.

5.2. Value-added of Community involvement and coherence of the proposal with other financial instruments and possible synergy

The Policy Plan on Asylum adopted by the Commission in June 2008 is designed to strengthen asylum legislation with the aim of creating an efficient and fair Common European Asylum System for persons seeking international protection and to underpin this legislation by strengthening practical cooperation among Member States on asylum.

The setting-up of the Office satisfies the second objective and will provide the necessary appropriate support for practical cooperation on asylum.

[29] Additional columns should be added if necessary, i.e. if the duration of the action exceeds six years.

5.3. Objectives, expected results and related indicators of the proposal in the context of the ABM framework

The aim of the proposal is to set up a regulatory agency tasked with providing the support necessary for practical cooperation on the many aspects of asylum.

The work of the Agency will help to improve the way Community rules on asylum are implemented and applied throughout the EU. The agency will not have decision-making powers and will engage in support activities that act as an incentive to practical cooperation on asylum, such as recommendations, referral to scientific authority, networking and pooling of good practice, evaluation of the application and implementation of rules, etc.

The Office's terms of reference will be focused on three major tasks: supporting practical cooperation on asylum, supporting Member States under particular pressure and contributing to the implementation of the Common European Asylum System.

A separate chapter of the Regulation is devoted to the coordination by the Office of asylum support teams made up of asylum experts that will provide operational support to Member States subject to strong pressure on their asylum systems that apply to the Office for its support.

5.4. Methods of Implementation (indicative)

☒ ***Centralised management***

- ☐ directly by the Commission
- ☐ Indirectly by delegation to:
  - ☐ executive agencies
  - ☒ bodies set up by the Communities referred to in Article 185 of the Financial Regulation
  - ☐ national public-sector bodies/bodies with a public-service mission

☐ ***Shared or decentralised management***

- ☐ with Member States
- ☐ with third countries

☐ ***Joint management with international organisations (please specify)***

6. MONITORING AND EVALUATION

6.1. Monitoring system

The Office will be subject to the standard monitoring procedures for regulatory agencies.

The Office will be managed by its Executive Director, who will be independent in the performance of his/her duties and be responsible for the day-to-day administration of the Office.

The Office will be subject to a number of obligations by which its performance will be evaluated each year:

- it will publish an annual general report on the Office's activities, and

- it will 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 Office will be subject to the following controls: budgetary control, internal audits, annual reports by the European Court of Auditors, the annual discharge for the execution of the Community budget and the investigations conducted by OLAF to ensure, in particular, that the resources allocated to agencies are put to proper use.

The activities of the Office shall be subject to the supervision of the Ombudsman in accordance with Article 195 of the Treaty. These administrative controls provide a number of procedural safeguards to ensure that account is taken of the interests of stakeholders and of the quality of output.

6.2. Evaluation

6.2.1. Ex ante evaluation

The ex ante evaluation was carried out as part of the impact assessment report.

6.2.2. Terms and frequency of future evaluations

No later than three years after the date referred to in Article 45, the Office will 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. It will 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. The Management Board, in agreement with the Commission, will decide the timing of future evaluations, taking into account the findings of the first evaluation report.

7. Anti-fraud measures

In order to combat fraud, corruption and other unlawful activities, the provisions of

Regulation (EC) No 1073/1999 will apply without restriction.

The agency will accede to the Interinstitutional Agreement of 25 May 1999 and issue, without delay, the appropriate provisions applicable to all the employees of the agency.

Decisions concerning funding and the implementing agreements and instruments resulting therefrom will explicitly state that the European Court of Auditors and OLAF may carry out, if necessary, on-the-spot checks of the recipients of the agency's funding and the agents responsible for its allocation.

8. DETAILS OF RESOURCES

8.1. Objectives of the proposal in terms of their financial cost

Commitment appropriations in EUR million (to 3 decimal places)

(Headings of objectives, actions and outputs should be provided)	Type of output	Av. cost	Year 2010		Year 2011		Year 2012		Year 2013		Year n+4		Year n+5 and later		TOTAL	
			No of outputs	Total cost	No of outputs	Total cost	No of outputs	Total cost	No of outputs	Total cost	No of outputs	Total cost	No of outputs	Total cost	No of outputs	Total cost
OPERATIONAL OBJECTIVE No 1[30] Provide the support necessary for practical cooperation on the many aspects of asylum.																
Action 1																
Equipment				0,050		0,025		0,050		0,050						0,175

[30] As described in Section 5.3.

Infrastructure				0,050		0,400		0,600		0,800						1,85
Action 2[31]				0,500		0,500		0,700		0,900						2,6
Action 3[32]				0,250		0,250		0,300		0,400						1,2
Action 4[33]				0,150		0,150		0,200		0,500						1
Action 5[34]				0,450		0,450		0,700		0,900						2,5
Action 6[35]				0,450		0,450		0,700		0,900						2,5
Action 7[36]				0,050		0,050		0,100		0,100						0,3
Action 8[37]				0,080		0,085		0,200		0,300						0,665
Subtotal Objective 1				2,030		2,360		3,550		4,850						12,79

31 Information technology./data processing.
32 Risk analysis/needs assessment.
33 Direct support.
34 Capacity building.
35 Planning, research.
36 External relations.
37 Information, communication.

OPERATIONAL OBJECTIVE No 2 Ensure efficient administration																
Action 1[38]				1,010		1,010		1,200		1,300						4,52
Action 2[39]				2,200		4,600		7,200		8,800						22,8
Action 3[40]				0,010		0,030		0,050		0,050						0,14
Subtotal Objective 2				3,220		5,640		8,450		10,150						27,46

TOTAL COST				5,250		8,000		12,000		15,000						40,25

38 Events, meetings, etc.

39 Human resources of Office.

40 Staff training.

8.2. Administrative expenditure

8.2.1. Number and type of human resources

Types of post		Staff to be assigned to management of the action using existing and/or additional resources (**number of posts/FTEs**)					
		Year 2010	Year 2011	Year 2012	Year 2013	Year n+4	Year n+5
Officials or temporary staff[41] (XX 01 01)	A*/ AD	4,5	4,5	4,5	3,5		
	B*, C*/ AST	3,5	3,5	3,5	1,5		
Staff financed[42] by Art. XX 01 02							
Other staff[43] financed by Art. XX 01 04/05							
TOTAL		8	8	8	5		

8.2.2. Description of tasks deriving from the action

In the early years of the agency, AD officials will be responsible for supporting the establishment of the Office and sitting on the Office's management and executive committees and taking part in working parties, where necessary.

AST officials will provide administrative support, for example support for missions and general administrative support.

8.2.3. Sources of human resources (statutory)

X Posts currently allocated to the management of the programme to be replaced or extended

☐ Posts pre-allocated within the APS/PDB exercise for year 2010

X Posts to be requested in the next APS/PDB procedure

X Posts to be redeployed using existing resources within the managing service (internal redeployment)

☐ Posts required for year n although not foreseen in the APS/PDB exercise of the year in question

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41 Cost of which is NOT covered by the reference amount.

42 Cost of which is NOT covered by the reference amount.

43 Cost of which is included in the reference amount.

Number of Office human resources (start-up and operational phase)

The information below is indicative. It is based on the evidence provided in the ex ante analysis of the impact assessment of the Office's establishment. Note that the numbers used in this financial statement are based on the maximum numbers used for the ex ante analysis. The real figures are likely to be lower than those given below.

Human resources and administrative needs will be covered by the managing DG's allocation under the annual allocation procedure in the light of budgetary constraints.

Year	Human resources to be recruited gradually
2010	24 (AT)
2011	36 (18 AT, 18 AC)
2012	20 (10AT, 10 AC)
2013	14 (10 AT, 4 AC)
TOTAL	94 (62 AT, 32 AC)

External recruitment will be managed by the Office. The breakdown between temporary staff (AT) and contract staff (AC) is indicative.

The Office's staff will consist of operational and administrative staff numbering 94 in total. This is an estimate. This information will be fleshed out when the Office's finalised tasks and requirements in terms of human and administrative resources are known after negotiation of the founding Regulation. Nevertheless, an initial estimate of requirements is given below in terms of the staff needed for the various tasks to be assigned to the Office under its founding Regulation

Estimate of EASO staff requirements

Minimum number of staff (from 2011 when the agency is up and running)		
Tasks	**AD staff**	**AST staff**
Management and horizontal staff	7	6
Pooling good practice[44]	7	4
Legislative support[45]	4	2

[44] Exchanges of information and identification and pooling of good practice among Member States in the field of asylum.

[45] Contribution to the implementation of the Common European Asylum System.

Experts pool[46]	2	1
Relocation[47]	1	2
Regional protection programmes[48]	1	
Resettlement[49]	1	
Country-of-origin information[50]	9	5
Training[51]	5	3
All operational staff	30	17
All operational + horizontal staff	37	23
Grand total AD + AST staff	60	

Maximum number of staff		
Tasks	**AD staff**	**AST staff**
Management and horizontal staff	8	7
Pooling good practice	12	7
Legislative support	6	3
Experts pool	5	3
Relocation	1	3
Regional protection programmes	2	

46 Support for the asylum support teams set up under the Regulation to provide operational assistance to Member States subject to particular pressure on their asylum systems.

47 Supporting intra-Community transfers of those accorded international protection.

48 Cooperation with third countries, especially building the capacity of third countries within the framework of regional protection programmes.

49 Activities to resettle refugees in the EU.

50 Information about the countries of origin of asylum seekers and people applying for international protection.

51 Development and organisation of training for administrations and courts, plus national administrations with responsibility for asylum in the Member States.

Resettlement	2	
Country-of-origin information	11	7
Training	11	7
All operational staff	50	29
All operational + horizontal staff	58	36
Grand total AD + AST staff	94	

Between 30 to 60 people will be required for the operational management of practical cooperation on asylum and other people will be responsible for the Office's administration.

Calculation: Office staff

24 people = EUR 2.2 million (2010)

60 people = EUR 4.6 million (2011)

80 people = EUR 7.2 million (2012)

94 people = EUR 8.8 million (2013)

These amounts are calculated on the basis of EUR 122 000 a year for temporary staff and EUR 64 000 for contract staff. Staff recruited in the course of the year are calculated over 6 months, except for the first year when 9 months is used for the calculation.

8.2.4. Other administrative expenditure included in reference amount (XX 01 04/05 – Expenditure on administrative management)

NOT APPLICABLE

EUR million (to 3 decimal places)

Budget line (number and heading)	Year n	Year n+1	Year n+2	Year n+3	Year n+4	Year n+5 and later	TOTAL
1. 1 Technical and administrative assistance (including related staff costs)							
Executive agencies[52]							
Other technical and administrative assistance							
- *intra muros*							
- extra muros							
Total technical and administrative assistance							

8.2.5. Financial cost of human resources and associated costs not included in the reference amount

The calculation is based on point 8.2.1.

EUR million (to 3 decimal places)

Type of human resources	Year 2010	Year 2011	Year 2012	Year 2013	Year n+4	Year n+5 and later
Officials and temporary staff (18 01 01)	0,976	0,976	0,976	0,610		3,538
Staff financed by Art XX 01 02 (auxiliary, END, contract staff, etc.) (specify budget line)						
Total cost of human resources and associated costs (NOT in reference amount)	0,976	0,976	0,976	0,610		3,538

[52] Reference should be made to the specific legislative financial statement for the Executive Agency(ies) concerned.

Calculation – ***Officials and temporary staff***

AD/AST – EUR 122 000 a year x 8 people = EUR 976 000 (2010, 2011 and 2012)

AD/AST – EUR 122 000 a year x 5 people = EUR 610 000 (2013)

Calculation – ***Staff financed under Article XX 01 02***

Not applicable

8.2.6. Other administrative expenditure <u>not</u> included in reference amount

This is administrative expenditure for the Commission staff referred to above, to be discussed before amounts are entered.

EUR million (to 3 decimal places)

	Year 2010	Year 2011	Year 2012	Year 2013	Year n+4	Year n+5 and later	TOTAL
XX 01 02 11 01 – Missions	0,010	0,025	0,025	0,025			0,085
XX 01 02 11 02 – Meetings and conferences							
XX 01 02 11 03 – Committees[53]							
XX 01 02 11 04 – Studies and consultations							
XX 01 02 11 05 - Information systems							
2. Total other management expenditure (XX 01 02 11)							
3. Other expenditure of an administrative nature (specify, including reference to budget line)							
Total administrative expenditure, other than human resources and associated costs (NOT included in reference amount)	0,010	0,025	0,025	0,025			0,085

[53] Specify type of committee and the group to which it belongs.

Calculation - ***Other administrative expenditure <u>not</u> included in reference amount***

Missions by officials to take part in meetings of the Management Board and/or Executive Committee (the true cost will depend on where the headquarters of the agency are located). Estimate: 10 missions for 2010 and 25 mission for other years.