



COMMISSION OF THE EUROPEAN COMMUNITIES

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

**ON STRENGTHENED PRACTICAL COOPERATION**

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

{SEC(2006) 189}

## 1. POLICY BACKGROUND

1. With the adoption on 1 December 2005 of Council Directive 2005/85 on minimum standards on procedures in Member States for granting and withdrawing refugee status<sup>1</sup> (the Asylum Procedures Directive), the first phase of the Common European Asylum System was completed. In the Hague Programme of 4-5 November 2004, the European Council reiterated that the aims of the Common European Asylum System in its second phase will be the establishment of a common asylum procedure and a uniform status for those who are granted asylum or subsidiary protection. The European Council also called for the establishment of appropriate structures involving the national asylum services of the Member States with a view to facilitating practical and collaborative cooperation towards three main objectives: achieving an EU wide Single Procedure; the joint compilation, assessment and application of Country of Origin Information (COI); and how Member States can better work together to address particular pressures on asylum systems or reception capacities resulting from factors such as geographic location. The Hague Programme says that these structures should be transformed, on the basis of an evaluation into a European support office for all forms of cooperation between Member States relating to the Common European Asylum System.
2. This Communication sets out how practical cooperation between Member States can support the realisation of the goals set at Tampere and in the Hague Programme. Annexed to the Communication are detailed work programmes for each of the three Hague objectives. A full policy background is included at Annex A.

## 2. WHY IS PRACTICAL COOPERATION IMPORTANT?

3. Tackling the management of asylum together as a Community is the *raison d'être* of the Common European Asylum System. Community involvement in this field has as its foundation the need for solidarity among Member States in addressing a challenge that, in an EU without internal borders, cannot be effectively dealt with by individual countries acting alone. The first stage of the Common European Asylum System, as well as introducing a common legislative framework, makes it necessary to work towards harmonisation, not only of legislation, but of practice.
4. Practical cooperation will enable Member States to become familiar with the systems and practices of others, and to develop closer working relations among asylum services at the operational level. This will build a basis for wider areas of collaboration, with the development of trust and a sense of mutual interest. The main goal of practical co-operation is to improve convergence in decision-making by Member States within the framework of the rules set by the Community asylum legislation. In this view, strengthened cooperation will deliver a “common tool box” for asylum authorities of the Member States answering to daily and operational needs of practitioners in the EU. Use of this tool box should lead to an improvement in quality across all aspects of the management of asylum in Member States and particularly on decision making, given the focus of the Hague objectives. This should

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<sup>1</sup> OJ L 326, 13.12.2005, page. 13.

contribute to a better assessment of the application of the first stage of the Common European Asylum System and provide a firm basis for the launching of the second phase instruments.

5. Improving quality is in the interest of both the Members States and asylum-seekers. Better quality decision-making would contribute to level the EU asylum playing field and build a single asylum space which gives protection to those who require it and deal fairly and efficiently with those without protection requirements. Through using the same tools and applying the same safeguards, Member States will also build trust and confidence in each others' systems and achieve greater consistency in practice.

### 3. DELIVERING PRACTICAL COOPERATION OBJECTIVES

6. Given the wide remit of the Hague Programme objectives, it is clear that the activities necessary to deliver them, require comprehensive cooperation between Member States. The Commission intends to propose the establishment of a network with a clear mandate for cooperation in each of the priority fields identified in the Hague Programme. This asylum cooperation network, which should be managed by the Commission, will provide a systematic basis for exchanging information, promoting best practice, establishing a repository of expertise with a view to improving convergence in asylum policies, contributing to a harmonised implementation of the first stage of the Common European Asylum System and building the basis for the establishment of a fully fledged Common European Asylum System.
7. In addition to the specific mandate of the asylum cooperation network, some of the activities necessary to meet the Hague objectives, which are set out in the annexes to this Communication, may be carried out by the Commission making use of the technical expertise and advice of ad hoc expert groups where specific and specialised expertise is required to inform the Commission's preparation of legislative amendments or assist the Commission in its monitoring and evaluation role. The **Eurasil** network,<sup>2</sup> for example, will continue to meet as an expert group in order to provide advice to the Commission on COI oriented activities.
8. Other forms of cooperation between Member States on specific issues will continue to be supported through the financial programmes as they contribute to the achievement of the objectives of the Hague Programme. The work of the General Directors of Immigration Services Conference (GDISC), whose activities are supported by EU funding, represents a good example of such forms of cooperation. The Commission will continue to support the activities of GDISC and will consider how to integrate GDISC in the implementation of the activities envisaged in this Communication.

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<sup>2</sup> **EURASIL**, the EU network for asylum practitioners chaired by the Commission, was established in July 2002 following the decision of by the Committee of the Permanent Representatives (Coreper II) on 6 March to cease the activities of the CIREA group (Centre for Information, Discussion and Exchange on Asylum).

9. For each of the objectives set out in the Hague Programme a number of steps should be taken which are described in detail in Annexes B, C and D to this Communication and outlined below.

### **3.1. Single Procedure**

10. The Single Procedure Communication<sup>3</sup> set out why the EU should take steps towards a Single Procedure. The Qualification Directive<sup>4</sup> obliges Member States to assess facts and circumstances relating to an application for international protection in exactly the same way for both refugee status and subsidiary protection. The Communication also underlined the potential protection gap for those applications for international protection which were not covered by the guarantees of the Asylum Procedures Directive. The Communication outlined the main advantages in terms of speed, efficiency and improvement in the quality of decision making inherent in taking steps toward an EU Single Procedure.
11. The Single Procedure Communication proposed a range of actions which could be taken to enable a greater convergence between Member States in ensuring that all applications for protection in the EU are covered by the same procedural guarantees. The Communication foresaw a twin approach to achieving a single procedure for the assessment of all applications of protection covered by Community law. That approach should now be incorporated into the practical cooperation envisaged in the Hague Programme. A preparatory phase of consultation, debate and preparation of what Member States need to do to unify the procedures, which lead to the two types of status set out in the Qualification Directive, should be followed by a legislative phase where proposals are brought forward to amend first stage legislation where necessary. The activities launching the preparatory phase, corresponding to the '*One Stop Shop Action Plan*' of the Single Procedure Communication, are set out in detail in Annex B and summarised below:

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<sup>3</sup> Commission Communication "A More Efficient Common European Asylum System: The Single Procedure As The Next Step", (COM(2004) 503 final).

<sup>4</sup> Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted (OJ L 304 of 30 September 2004, p. 12)

**Single Procedure activities should be aimed at:**

- **Identifying where changes need to be made in Member States' administrative practice in order to implement the 1<sup>st</sup> stage instruments.**
- **Assessing how quality and efficiency of asylum systems can be improved through including all possible grounds for protection in one decision.**
- **Identifying best practice in managing resources in a Single Procedure, including through costing comparisons and twinning exercises.**

**The results of these activities will inform the preparation of legislative action, notably to ensure that, at a minimum, the guarantees agreed as applicable to claims for refugee status in the Asylum Procedures Directive extend to applications for subsidiary protection.**

**3.2. Country of Origin Information (COI)**

12. The collection, organisation, assessment and presentation of COI are all central to the asylum processes and decision making of EU Member States. COI enables the asylum authorities of Member States to verify statements made by applicants concerning their need for protection and to establish whether the applicant should benefit from international protection. An objective, transparent and accurate COI system that delivers official, rapid and reliable information is therefore central to any assessment of whether a person should benefit from international protection. More convergence on the collection and analysis of COI by asylum authorities in Member States would contribute to levelling the asylum playing field.
13. Cooperation on COI will be a central feature of the mandate the asylum cooperation network. The first objective of such cooperation should be to establish an easily accessible common entry point for existing information. This could be achieved via the creation of a 'common portal' through which all Member States authorities could access, through one stop, all official COI databases, Member States' legislation, relevant EC and national legislation and case-law as well as other official sources of information. A 'common portal' would provide a useful additional resource particularly for those Member States with less well developed COI resources.
14. Another objective would be for the Commission to propose guidelines on the production of COI, making full use of the advice from the Eurasil expert group. The application of those guidelines to Member States' own COI would be the first step towards the longer term objective of a harmonised application of COI in line with the Hague Programme objectives. In the longer term, the development of a fully-fledged EU COI database containing information based on EU common principles should be envisaged. Activities aimed at achieving a joint approach on COI are set out in detail in Annex C and summarised below:

**Cooperation on COI should have three main objectives in the short to medium term:**

- **The establishment of common guidelines on the production of COI**
- **The establishment of a ‘common portal’ to Member States COI databases as well as other relevant information**
- **A pragmatic solution to the translation difficulties facing Member States in dealing with COI from different sources.**

**The result of these activities should lead in the longer term to the future development of an EU COI database**

15. Complementary to cooperation on COI (although distinct in substance), the Commission will start the necessary work for the preparation of the minimum common list of safe countries of origin foreseen in Article 29 of the Asylum Procedures Directive. In the preparation of such a list, the Commission will make use of the information provided by its own delegations in third countries, as well as of reports prepared by Member States diplomatic representations. Enhanced cooperation and coordination between Member States and the Commission in this field will be essential and contribute to the accuracy, consistency and reliability of the information.

### **3.3. Particular Pressures**

16. How to pool resources and ensure that asylum burdens are not felt disproportionately by a few Member States is both technically difficult and politically sensitive. While the Temporary Protection Directive<sup>5</sup> provides for solidarity between Member States in the event of a mass influx of displaced persons, its specific requirements do not provide an adequate response to the kind of particular pressure on asylum services and reception capacities more frequently experienced by Member States. These pressures have been characterised by the arrival of several hundred persons of different nationalities at particular points on the external border, seeking entry to the EU for one reason or another, some for protection. Other, more systemic pressure points have occurred, when individual Member States have been faced with rapid rises in asylum applications with resource implications and the threat of backlogs and problems in delivering adequate reception facilities.

17. Individuals’ need for international protection is only one part of the confluence of forces which cause particular pressures situations. The EU needs to find responses to this challenge through better management of migratory flows, improved internal coordination in addressing illegal immigration and assistance to third countries, in full partnership, using existing Community funds, where appropriate, to improve their capacity for migration management and refugee protection. Those aspects of Community migration policy are not dealt with in this Communication. The purpose

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<sup>5</sup> Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof (OJ L212, 7.8.2001, p. 12).

of this Communication, and the actions detailed in Annex D, is focused on how to support Member States in their efforts to abide by their obligations under the first stage measures of the Common European Asylum System in the face of the challenges brought by particular pressures situations.

18. The application of the first stage legislation and the onset of the practical cooperation phase, with the increases in efficiency which it brings, should go some way to enable Member States to respond better to particular pressures situations. Tools to address clear needs exist already in the Community financial programmes and in the rich variety of expertise and experience currently active in Member States themselves. The challenge for the EU is to how to turn these tools into a quick and reliable mechanism for helping Member States address particular pressures so that the application of the Common European Asylum System is not compromised. In this respect, it will necessary for Member States to cooperate in order to share resources and find solutions. One core activity of the asylum cooperation network could be the sharing of expertise to address collectively the range of challenges faced by Member States in relation to particular pressures situations, without putting into question the individual obligations of Member States in terms of delivery of protection.
19. In addition to the recommendation for practical actions contained in Annex D, the Commission intends to propose amendments to the European Refugee Fund<sup>6</sup> (the ERF) to enable Member States to access funds quickly and with a minimum of bureaucratic process to deal with the consequences of sudden arrivals of large numbers of people who may be in need of international protection. The Commission also intends to streamline the procedure for accessing more rapidly the funding for urgent actions contained in the ARGO programme<sup>7</sup>. The first evaluation of the Dublin Regulation<sup>8</sup>, which will take place in 2006, will also provide a useful focal point for consideration of how the Regulation might be adjusted in certain situations to ensure that Member States were not unduly disadvantaged by their geographic location. The actions recommended by the Commission are set out in detail in Annex D and summarised below:

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<sup>6</sup> Council Decision (2004/904/EC) of 2 December 2004 establishing the European Refugee Fund for the period 2005 to 2010 (OJ L381, 28.12.2004, p. 52).

<sup>7</sup> Council Decision (2004/867/EC) of 13 December 2004 amending decision 2002/483/EC adopting an action programme for administrative cooperation in the fields of external borders, visas, asylum and immigration (the ARGO programme) (OJ L 371, 18.12.2004).

<sup>8</sup> Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third country national (OJ L 50, 25.2.2003).

**Actions to address particular pressures:**

- **Amendment of European Refugee Fund so that Member States can access funds quickly and with a minimum of bureaucratic process for emergency actions.**
- **Streamlining of the procedure for accessing more rapidly the funding for urgent actions contained in the ARGO programme**
- **Setting up of expert teams to address reception and processing issues for sudden arrivals of large numbers at the external border of the EU.**

**Longer term options include a comprehensive assessment of particular pressures which have occurred in the past and the setting up of a network of Member State information officers in selected third countries.**

**3.4. Training**

20. Training of asylum service personnel remains central to the implementation of the Common European Asylum System. The agreement of key principles of good practice for administrative acts such as interviewing and decision making would provide a firm basis for the development of a European curriculum leading to even greater convergence in practice and administrative method. In the Annexes, training issues are dealt with as part of each set of activities towards the Hague objectives.

**4. A EUROPEAN SUPPORT OFFICE FOR ALL FORMS OF COOPERATION BETWEEN MEMBER STATES RELATING TO THE COMMON EUROPEAN ASYLUM SYSTEM**

21. The Hague Programme says that the structures involved in practical cooperation should be transformed, on the basis of an evaluation, into a European support office for all forms of cooperation between Member States relating to the Common European Asylum System. As practical cooperation expands, coordination of the range of relevant activities will demand increased effort and participation to provide the necessary support to Member States asylum authorities. These demands may exceed the capacity of the future asylum cooperation network. There will also be maintenance activities related to the upkeep of information, the updating of sources and documentary references and the revision of relevant guidelines. This will be particularly relevant to the 'common portal' for COI and its subsequent development into an EU COI database. In the initial stages, this function can be part of the mandate of the network, but cooperation activities will soon acquire a critical mass requiring a more structured devolution of technical functions.

22. The Commission will report on the progress achieved at the end of the first phase of activities (early-2008). The Commission's progress report should include an assessment of funding possibilities and of whether the asylum cooperation network ought to be further developed in order to properly maintain the repository of expertise and information established and ensure that the predictability, consistency and continuation of services to Member States is sustained. On the basis of such an evaluation, a feasibility study will be carried out on the establishment of a European support office for all forms of cooperation between Member States after a common asylum procedure has been established as envisaged in the Hague Programme.



23. At this stage it could be envisaged European support office would have a technical support function for the operation of the COI ‘common portal’ and an EU COI database. It could also incorporate a training facility on all aspects related to the application of the Common European Asylum System. The office would also coordinate responses to particular pressures situations. In devising future functions of the office, account should also be taken of the studies on joint processing in the EU which the Hague Programme invites the Commission to complete. The relationship between the future European support office and any EU joint processing function will obviously be key to the completion of the Common European Asylum System. The development of the European support office could also prove useful in terms of work carried out in the migration and integration fields. Political direction on the scope and character of the support office will be set by the Commission, in the light of the goal of a Common European Asylum System.

## 5. EARMARKING COMMUNITY FUNDS

24. The first wave of practical cooperation will encourage Member States to present projects in concert with other like-minded Member States or as an individual venture to the benefit of the 25, which will contribute to the achievement of the Hague objectives. The support and sustainability of the programme of activities put forward in this Communication needs to be assured. However it is clear that existing financial opportunities, through the ARGO Programme and the Community Actions of the ERF do not provide the flexibility or increased funding needed to complete the ambitious mandate set in the Hague Programme. The Commission therefore intend to make proposals to amend the ERF and the ARGO Programme to ensure that delivery of the Hague priorities can be supported. The main elements of the proposals for amendment, to be brought forward early in 2006, are summarised below:

- **ERF to be amended to set aside more funds for practical cooperation through Community actions.**

25. Through ensuring that the relevant work programmes take account of the cooperation envisaged and that adequate funds are available through Community funding strands, work towards the Hague Programme will be financially underpinned.
26. The objectives of the Hague Programme and the need to ensure sustainability of the management of a fully fledged Common European Asylum System will have to be taken into account in the discussions on the proposed framework programme, “*Solidarity and management of migration flows,*”<sup>9</sup> which is aimed at addressing the different burdens imposed on Member States in implementing Community legislation across the asylum and migration field for the next eight years.

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<sup>9</sup> Commission Communication establishing a framework programme on Solidarity and Management of Migration Flows for the period 2007-2013 (COM(2005) 123 final).

## 6. CONCLUSION

27. The deadline set for the establishment of a common asylum procedure by the Hague Programme is 2010. Properly implementing the first stage legislative instruments is a necessary precursor to that. The practical cooperation embarked on to support that aim also has the effect of a horizontal harmonisation – so that a common approach is developed and strengthened through administrative consistency and by sharing expertise, resources and knowledge. Through practical cooperation, managing asylum together, with the improvement in quality which that brings, will become the daily operational reality rather than simply an aspirational, legislative goal.