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In reply to the questions contained in the above document, we should like to make the following comments, set out by chapter.

## **2.- LEGISLATIVE INSTRUMENTS**

### **2.1 Processing of asylum applications**

Creating a Common European Asylum System (CEAS) requires not only the setting-up of common and harmonised legal frameworks but also their consistent application in practice throughout the EU. Achieving an effective asylum system is not just a question of procedures as such. What is more difficult is creating a system of guarantees within the asylum system to support the international authorities (Geneva Convention, etc.), and an internal mechanism to ensure that these guarantees are complied with.

Since the national asylum systems are being maintained pending the introduction of a common EU procedure, it is of vital importance to strengthen capacities and know-how at national level. This means that issues of practical cooperation and the creation of expertise within the EU are of paramount importance. Given the considerable differences between Member States (in terms of capacity, social welfare, economic potential, political and social interests, geographical considerations), asylum systems should be based on what is considered the common aim, which is to support human rights.

Practical cooperation and the creation of expertise are of paramount importance and therefore: (a) staff involved in asylum issues in the Member States should be chosen carefully and appointed for this purpose alone; (b) such staff should be trained in appropriate structures, ideally at EU level; (c) basic information on countries or regions of origin should be systematically shared by means of common information networks; (d) decisions (assessment of claims) should be taken in a consistent manner with regard to

the objective elements of the cross-examination and a database should be set up for the decisions and in particular for the reasoning behind these decisions, so as to ensure justice, transparency and efficiency.

Given the number of applications and the pressure faced by certain EU countries, above all those with EU external borders, it is extremely important to screen and correctly identify and record asylum-seekers at the border control stage or at the initial reception stage. In countries under severe pressure, such as Greece, procedures at the borders should be strengthened by appointing suitable staff and building up experience. Pin-pointing needs is a demanding and painstaking process, especially as far as vulnerable groups are concerned (injured asylum-seekers, victims of torture, unaccompanied minors), because often the arrival of large groups at the EU's borders places an even heavier burden on the countries' control and reception infrastructure. It is also difficult to determine the exact facts in each case, whether it is a case of international protection, non-refoulement, family unity, or sensitive cases requiring special attention, often because the person concerned fails to provide satisfactory information to the authorities or else has other intentions (secondary movements within the EU). Member States should be given the means to assess each case through the sharing of experience and information.

Providing appropriate guarantees concerning access to the asylum procedure is also of great significance. One of these guarantees is the EU-wide improvement in the kind of information and legal aid given to new arrivals.

## **2.2. Reception conditions for asylum seekers**

Differences in reception conditions in EU countries lead to "poles of attraction"; that is why harmonising these conditions is so important. The current substantial differences between Member States in the area of social policy, which are due to economic disparities and varying opportunities, lead to serious divergences in the way asylum-seekers are treated in the EU and are the source of a series of issues: secondary movements, burdening of the numerous and different asylum systems. Divergences should certainly be limited as regards the provision of adequate material reception conditions (housing, food, access to health care). In Greece's experience, fulfilling basic survival needs is the main reason for the current phenomenon of "asylum shopping". As regards housing in particular, determining the number of reception centres needed in each Member State and their rules of operation should be an immediate EU priority.

Reception centres, their administrative authorities and how they operate should be harmonised so as to provide the same level of service, both for a short-term presence and a long-term stay in the EU. The duration and conditions of the stay at these reception centres should also be harmonised.

The issue of access to the labour market is a complex one and is linked to a number of economic and financial factors which have repercussions in every Member State (unemployment rate, level of economic development, fields of industrial or other development, etc.). While the issue should be examined in a comprehensive manner with a view to harmonisation, several issues could be tackled further, such as: (a) linguistic ability, (b) determination or creation of skills and (c) national structures examining unemployment as a whole.

However, any further harmonisation of the national rules regulating the access of asylum-seekers to the labour market, under a Common European Asylum System, should comply with and take into account the specific features of each market in the different Member States.

The aim of our position as set out above is to avoid problems which could arise from the imposition of a single procedure for access to the labour market for this particular category of third country nationals which is not based on facts such as unemployment rates in particular sectors and the needs of the domestic economy in terms of workers. Examples of such problems are a rise in unemployment and an uncontrolled flow of asylum-seekers to Greece.

### **2.3. Granting of protection**

Subsidiary protection is increasingly proving to be the form of international protection which is set to dominate in Europe (protection related to environmental factors, internal conflicts, poverty, etc.). To support the principle of the 1951 Geneva Convention and the definition of a refugee, it is of the utmost importance that the criteria for granting subsidiary forms of protection be clearly differentiated from those applied under the Geneva Convention, not only because there is a different legal framework for the protection of refugees but also because it is important, for both national legal systems and respect for human rights in Europe, to maintain a distinction between persons who flee persecution because of their political beliefs and persons who flee natural disasters such as flooding.

However, the differences between Member States as regards the rights and benefits attached to the protection statuses are extremely broad, leading again to "poles of attraction". Beyond the existing approximation of the standards for incorporating refugees and persons entitled to subsidiary protection, it is difficult for a common asylum system to be viable since people in need will continue to oppose all the attempts of the Member States in the area of burden sharing, etc, in order to secure the best conditions for themselves and their families. Funding from the EU, possibly from the ERF, should be used to strengthen the weakest countries so that they are able to offer refugees a decent standard of living.

The idea of an EU mechanism for ensuring compliance with the standards of a CEAS really "raises the stakes" and is bound to be effective, provided, however, that such a mechanism does not increase national bureaucracy but is given competences to intervene at national level. In the absence of a Court of Justice to monitor Member State compliance with the Geneva Convention, an EU mechanism with enhanced competences could to some extent fill this vacuum.

## **2.4 Cross-cutting issues**

Persons eligible for protection are most likely to be persons who have experienced traumatic events. This should be taken into account when designing and implementing reception and integration policies. Inadequate reception and integration policies can aggravate or prolong the consequences of a trauma. It is important to encourage cooperation between the competent authorities for immigration and asylum and the bodies responsible for healthcare and the welfare of children and adults. Services to asylum-seekers and beneficiaries of international protection should be provided with the help of cross-cultural mediators and interpreters. National capacities should be able to address the varying degrees of vulnerability and should in general become more sensitive to the situation of persons requiring international protection.

As regards social inclusion and in particular access to the labour market, asylum-seekers should be granted a work permit once the labour market has been analysed to determine whether there are posts which could be filled by these people; similarly, beneficiaries of international protection should also receive a work permit, since the possibility of getting a job contributes in no small way to their integration into society.

## **3.- IMPLEMENTATION – ACCOMPANYING MEASURES**

The practical cooperation set up within the framework of the Contact Committees and Eurasil has enabled experience and practices to be exchanged. However, these bodies have mostly limited themselves to exchanging information, and lack a clear mandate to work out more consistent approaches and higher quality standards. Initiatives to bring policy into line with practice should be supported, but they should observe better protection practices, in accordance with international legal standards.

The development of a common user-friendly database containing information on countries of origin (COI portal) would be a significant step towards harmonising decision-making. Cooperation via the joint missions from various Member States resulting in joint COI reports could prove very useful. Joint analyses and interpretations of the information collected by the Member States would then contribute to higher reliability for certain groups and issues.

The development of common training programmes for border guards, interpreters, staff working in reception centres, persons providing legal aid and other persons involved in the asylum process would also deliver a great deal of added value.

A European asylum support office could play a valuable and reinforcing role. It could help collect information on the practices of the Member States and develop actions to help Member States comply with their obligations. This European Office should not, however, have regulatory or official control competences. It could offer various administrative services, together with certain clearly-determined and approved essential functions in favour of the Common European Asylum System, such as providing administrative support and coordination for Eurasil and the Contact Committees, assessing and analysing the reasons for divergences which are unacceptable under the CEAS, or drawing up information and training study programmes for all those involved in the asylum process.

## **4.- SOLIDARITY AND BURDEN SHARING**

### **4.1. Responsibility sharing**

Implementing the mechanism of the Dublin II Regulation in Europe has led to difficulties for both asylum-seekers and some Member States, mainly owing to their geographical location. Harmonising asylum procedures is an essential condition if the Dublin II mechanism is to lead to a more equitable and viable solution for the persons falling within its scope. Transfers which take place under the Dublin system, at least as far as Greece is concerned, are not equally balanced compared to non-border Member States. Its criteria should be reviewed and supplemented to take better account of the specific situation of individual asylum-seekers. The assessment should not be left exclusively to the discretion of the Member States; on the contrary, the EU should introduce binding criteria (family unity, medical or other exceptional circumstances). After this assessment, the Dublin system should be complemented by measures enhancing fair burden-sharing, which should take equally into account the specificities of each Member State and the situation and needs of individual asylum-seekers.

### **4.2 Financial solidarity**

The European Refugee Fund (ERF) supplements, and does not replace, national resources. On the basis of its operation to date, we believe that the percentage of resources allocated to the national authorities should be increased. The new ERF allocates 90% of its funding to national authorities, compared to 95% under the first ERF and 93% under the second ERF.

Moreover, an information platform could be set up between Member States which implement ERF programmes and other stakeholders in order to facilitate the exchange of experience and best practices at EU level. Discussions in such a forum could be facilitated by the European Asylum Support Office.

## **5.- EXTERNAL DIMENSION OF ASYLUM**

### **5.1 Supporting third countries to strengthen protection**

As far as the pilot Regional Protection Programmes in Tanzania, Belarus, Moldova and Ukraine are concerned, and in the broad sense of the term "protection", humanitarian aid, development and external relations actors could also take part. It is a long-term process which requires continuous support.

These programmes should support durable solutions for refugees, including voluntary repatriation. In order for third countries to meet the challenges of immigration, it is crucial to recognise that countries have specific responsibilities to protect asylum-seekers and refugees who are usually mixed up in flows of illegal economic migrants.

### **5.2 Resettlement**

Resettlement should be a complement to, and not a substitute for, the provision of protection to persons submitting an application in the EU or at its borders. We support the concept of resettlement, but only on a non-compulsory basis for the Member States.

However, the establishment of an advisory forum would be very useful for those Member States which voluntarily make use or wish to make use of the resettlement tool in future. An advisory team could be set up to exchange information and best practices.

### **5.3 Addressing mixed flows at the external borders**

The European Union should decide whether it wants its migration policy to be restrictive or open. Recent studies show that Europe needs immigrants; it is therefore urgent to strengthen legal immigration channels. However, the protection of persons eligible for such protection and who are among mixed flows of migrants could be strengthened by ensuring that the staff involved are as specialised as possible and kept continually up-to-date as to developments.

### **5.4 The role of the EU as a global player in refugee issues**

The EU is already an global player in refugee matters and its support is vital to strengthen the capacity of host third countries to meet the needs of refugees in terms of humanitarian aid, protection and viable solutions. This is its main aim. The EU's economic and political support must be maintained so that protection standards can be improved in third countries.

**THE DIRECTOR**

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