

The UK's response to the Green Paper on the future Common European Asylum System (COM 2007 301)

Introduction

The UK's objective is to swiftly assess claims for asylum, integrate to those in need of our protection and remove those whose claims fail. Within Europe and globally we support efforts to ensure that refugees are able to obtain protection in the first safe country that they reach and that they should be able to obtain protection near to their country of origin. Furthermore we should aim to stop 'asylum shopping' between those countries able to provide appropriate protection.

The challenges of migration are global in nature. Working collectively on asylum issues has already brought benefits for the Member States of the European Union and we believe there is scope for further cooperation at EU level. Notably the responsibility mechanism set out in the Dublin II Regulation and supported by the EURODAC Regulation are a benchmark for successful Member State co-operation on asylum. The implementation of the Minimum Standards Directives has also provided the basis for a common approach across Europe whilst allowing Member States to reflect their distinct domestic circumstances.

Legislative instruments

The UK Government firmly believes that the successful development of the Common European Asylum System (CEAS) will be contingent upon a full evaluation of the first phase of CEAS legislation. We are concerned that the process of evaluation set out in the Green Paper will not deliver an accurate or informative picture of how the first phase of CEAS legislation has been implemented and its impact on enhancing protection for those in need, speeding up the asylum process across Europe and in combating asylum shopping.

The Green Paper states *"that due account has been taken in the preparation of the Green Paper of all information which is already available on the implementation of the first stage instruments and on the deficits detected in practice, so as to allow for an informed reflection and debate"*. However, given that the deadline for Member States to implement the Qualification Directive was 10 October 2006 and the Procedures Directive is not due to be implemented until 1 December 2007 we believe that insufficient time has elapsed for us to be able to judge the impact made by two of the key CEAS instruments.

We are also concerned that we need to ensure the proper implementation of the first phase instruments before embarking on a second phase of CEAS legislation. There is evidence of ongoing disparities in the grant and application rates as well as reception conditions and procedures across the European Union which will be affected by the full implementation of the first phase instruments.

The UK therefore believes that we should conduct a full evaluation of the first phase once adequate time has been allowed for Member States to implement the Directives. This will allow for disparities to be addressed and for them to settle as normal practice. The evaluation would need to consider the extent to which the provisions of each Directive have been adopted within national legislation, how these provisions are operating in practice and whether the provisions have had the desired outcome.

In the intervening period the UK Government believes that the focus should be on increasing the levels of practical co-operation between Member States and the dissemination of best practice in implementing the first phase legislation.

Implementation – accompanying measures

The UK believes practical co-operation provides us with a good opportunity to understand other Member States' asylum systems better, to learn from best practice across the EU and to help other Member States in improving their asylum procedures. This should in turn improve the level of protection afforded across the EU and should have some impact on reducing "asylum shopping" within it.

Examples of practical co-operation supported by the UK and other Member States aimed at directly improving the standard and consistency of asylum processes within the EU and which could be further developed include:

- **Phase II of the European Asylum Curriculum** establishing a common approach to the processing of applications
- **The Interpreter Pool Project** in which the UK, Germany, Norway and the Netherlands provide interpreters via videoconference to support countries without the specialist experience in those areas such as Norway, Lithuania, Latvia, Croatia, Czech Republic, Turkey, Bulgaria, Slovakia and Estonia.
- **The European Country of Origin Sponsorship (ECS) project** in which Member States with specialist knowledge of source countries act as "sponsor" on asylum related questions (in the case of the UK on Eritrea and Zimbabwe) providing a service to all other Member States. Other sponsor countries include Austria; Belgium; Denmark; France; Germany; Netherlands; Poland; Slovakia; Switzerland and Sweden.

We welcome the Commission's confirmation that they will launch a feasibility study to explore in a thorough and comprehensive manner the different options. The options presented by the feasibility study will need to be benefits-driven and add value to the existing process. We would in particular welcome structures which allow individual Member States to work closer together to improve performance and increase the use of best practice throughout the EU. **We see this as a priority action.**

In taking forward this work there are several areas where the UK feels practical co-operation between Member States and other stakeholders could contribute towards the successful delivery of the CEAS objectives. The Commission may consider encouraging participation in the following areas:

- **Capacity building** – providing assistance to Member States to develop the quality and capacity of their asylum systems.
- **Sharing of information on fraud** – comparing experience and sharing best practice on identifying fraud within the asylum process.
- **Expert teams to deal with particular pressures** – developing a model of how teams of asylum experts from across the EU could provide assistance to individual Member States dealing with particular pressures would work in practice.
- **Guidance on Vulnerable Groups** – establishing comprehensive best practice on dealing with vulnerable individuals.

- **Quality of Asylum Decisions** – sharing information and experiences on improving the standard of national initial decision making
- **Assisted Voluntary Returns** – sharing experience of Assisted Voluntary Returns programmes and investigating ways of more effectively promoting the opportunities available for individuals to return home voluntarily.
- **Nationality Swapping (including Language Testing)** – assisting Member States to develop techniques in particular language testing as part of the decision making process
- **Resettlement** – sharing experience and encouraging the roll out of national resettlement programmes
- **Best practice on Dublin II/ Eurodac** – promoting compliance with Dublin II and EURODAC regulations
- **Compliance with First Phase Directives** – comparing and contrasting the implementation and practical operation of first phase instruments and seeking greater levels of convergence amongst Member States.

Solidarity and burden sharing

We believe the current responsibility mechanism to deal with asylum seekers - the Dublin Regulation – is the backbone of the CEAS. It is vitally important as it seeks to counteract the asylum shopping phenomenon, which if left unchecked, would place an increased burden on all Member States as the same individuals would be able to make multiple applications within the EU, each requiring substantive consideration and material support in the separate nation States. The recent Commission staff working paper noted that 17% of asylum applications in 2006 were subsequent applications (that is, second or more). This is also a slight increase on the previous year and indicates that the issue of asylum shopping continues to be a significant one across the EU and continues to represent a significant waste of resources at EU level.

We firmly believe that the “responsibility” concepts within the Dublin system go beyond simple responsibility for dealing with the asylum applicant by emphasising our *collective responsibility* towards each other. The existence of the Dublin System means that Member States are required to work together and act at national level in ways which are consistent with the demands of our shared area of freedom, security and justice. This includes the recording and processing asylum applications in accordance with the component measures of the CEAS, controlling the air, land and sea borders for the benefit of all, acknowledging the consequences of illegal entry and illegal presence in individual territories and then either making effective expulsions at the end of a procedure or granting an appropriate permit if removal is not possible. In this way the “responsibility” of the Dublin system provides a focus for effective actions at national level.

In terms of burden sharing we recognise that there are impacts on some countries as a result of geography or distinct national circumstances and continue to support mechanisms which reflect the disproportionate burden that can arise. We therefore continue to support the financial solidarity mechanisms and practical assistance - which can at most be best described as organisational burden sharing.

We see the provision of financial and practical assistance to those Member States facing particular (defined) pressures as a key part of the future CEAS and welcome the adoption this year of the four funds: the European Refugee Fund, Return Fund, Integration Fund and External Borders Fund. We welcome the opportunity these

funds represent to support Member States in the management of migration flows. And note the proposed increases in funding available in the period 2007-13.

The European Refugee Fund could be a more effective support for recipient organisations if the eligibility criteria on spending the money were relaxed. At present the complicated eligibility rules, which are significantly more restrictive than domestic funding streams, can prove a disproportionate risk and effort for small organisations with small turnover who are otherwise carrying out excellent work with refugees. Simplification of the rules, with supporting plain-language materials designed for such organisations, would widen the scope of projects able to participate, including those run by refugees themselves whose first language may not be an EU language. In particular, at present projects experience a reduction in EU funding if they are successful in raising funding elsewhere. This can prove a deterrent towards maximising resources and results for projects.

It would be helpful if the European Integration Fund could be used to enhance the integration of intra-EU migrants as well as those who migrate from outside of the EU. Efforts made by local areas to support high numbers of European migrants can significantly impact on available resources and good will towards asylum seekers, refugees and migrants from outside the EU. In addition, it is often desirable for some projects to be aimed at more than one of these groups and it can prove artificial to restrict funding to projects that deal with one group only.

The UK acknowledges the useful increase in training, input and support from the Commission in administering the funding streams particularly through the increase in technical assistance allocations. Regular and more frequent training sessions for Member States would enhance the ability of Member States to administer the funds effectively and accurately and to meet European standards, deadlines and goal of the funds.

We believe, however, that burden sharing based on the physical movement of individual applicants between Member States – physical burden sharing – would undermine the principles in the Dublin arrangements. In particular we believe that redistribution mechanisms would provide pull-factors for those not in need of protection and in reality increase the pressure on the European Union.

External dimension

According to the United Nations High Commission for Refugees (UNHCR) at the end of 2006 an estimated 7.2 million refugees were hosted by developing countries, often countries the least able to support them. In order for the EU to maintain its international and human rights obligations to those in need, it is important that we support other countries to meet their international obligations and in particular sign up and abide by the relevant international instruments. Where they do not have the capacity to do so, we should seek collectively, to support their capacity by supporting them in their efforts to protect refugees in their regions of origin.

One way in which the EU can do this, in conjunction with UNHCR and other actors, is through the development of **Regional Protection Programmes**. These are primarily focussed on providing improved protection for those in need more quickly and nearer their homes – through building capacity in regions of origin and transit. We should continue to support the current pilot programmes which are in place and ensure a swift evaluation of their effectiveness and added value. If Regional Protection

Programmes are to be sustained beyond the pilots, we suggest that dedicated funding and embedding them in EU external policy would be needed.

Resettlement

In the UK the Gateway Protection Programme is operated by the Border and Immigration Agency in conjunction with UNHCR. The UK is one of the few EU Member States to have a formal resettlement programme. We are very keen that other EU states sign up to the programme and have offered emerging resettlement countries assistance in mentoring as well as information about our current programme.

The UK currently provides support to Italy and Japan who have both expressed an interest in setting up resettlement programmes. When we were setting up the UK programme we benefited from a similar twinning project with Sweden and found this approach extremely useful. We would be cautious about centralising resettlement operations, however. All EU Member States operate separate criteria both for determining who is offered resettlement and the integration model provided once in the resettlement state. We believe that in line with the principles in the 1951 Convention Member States should continue to be responsible for the decision to provide protection to individuals wherever their claims are considered.