



2016/0131(COD)

7.9.2016

*****I**

DRAFT REPORT

on the proposal for a regulation of the European Parliament and of the Council
on the European Union Agency for Asylum and repealing Regulation (EU) No
439/2010
(COM(2016)0271 – C8-0174/2016 – 2016/0131(COD))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Péter Niedermüller

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the ▬ symbol or ~~strikeout~~. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a regulation of the European Parliament and of the Council on the European Union Agency for Asylum and repealing Regulation (EU) No 439/2010 (COM(2016)0271 – C8-0174/2016 – 2016/0131(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2016)0271),
 - having regard to Article 294(2) and Article 78(1) and (2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0174/2016),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to Rules 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinion of the Committee on Budgets (A8-0000/2016),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a regulation

Recital 11

Text proposed by the Commission

(11) The European Union Agency for Asylum should ensure a more structured and streamlined production of information on countries of origin at the level of the European Union. It is necessary for the Agency to gather information and draw up reports providing for country of origin information by making use of European networks on country of origin information so as to avoid duplication and create synergies with national reports. Furthermore, to ensure convergence in the

Amendment

(11) The European Union Agency for Asylum should ensure a more structured and streamlined production of information on countries of origin at the level of the European Union. It is necessary for the Agency to gather information and draw up reports providing for country of origin information by making use of European networks on country of origin information so as to avoid duplication and create synergies with national reports. Furthermore, to ensure convergence in the

assessment of applications for international protection and the nature and quality of protection granted, the Agency should, together with Member States, engage in and develop a common analysis providing guidance on the situation in specific countries of origin.

assessment of applications for international protection and the nature and quality of protection granted, the Agency should, together with Member States, engage in and develop a common analysis providing guidance on the situation in specific countries of origin. ***Such common analysis should be developed in consultation with the United Nations High Commissioner for Refugees (UNHCR), as well as in full respect of and in accordance with the most recent UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers from specific countries of origin. This common analysis should also take into account the UNHCR country/situation specific position papers, where available. Where there is a conflict between the common analysis and UNHCR guidance, the latter should be carefully taken into account by Member States when examining individual applications for international protection in accordance with the supervisory responsibility of the UNHCR as set out in paragraph 8 of the Statute of the Office of the High Commissioner for Refugees, read in conjunction with Article 35 of the 1951 Convention relating to the Status of Refugees (1951 Convention) and Article II of the 1967 Protocol relating to the Status of Refugees (1967 Protocol).***

Or. en

Amendment 2

Proposal for a regulation Recital 14

Text proposed by the Commission

(14) The European Union Agency for Asylum, in close cooperation with the Commission and without prejudice to the Commission's responsibility as guardian of the Treaties, should establish a mechanism

Amendment

(14) The European Union Agency for Asylum, in close cooperation with the Commission and without prejudice to the Commission's responsibility as guardian of the Treaties, should establish a mechanism

to monitor and assess the implementation of the CEAS, the compliance by Member States with operational standards, guidelines and best practices on asylum and to verify the functioning of the asylum and reception systems of Member States. The monitoring and assessment should be comprehensive and should be based, in particular, on information provided by Member States, information analysis on the situation of asylum developed by the Agency, on-site visits and case sampling. The Agency should report its findings to the Management Board which in turn should adopt the report. The Executive Director should, after consultation with the Commission, make draft recommendations to the Member State concerned outlining the necessary measures to address serious shortcomings, which in turn shall be adopted by the Management Board as recommendations.

to monitor and assess the implementation of the CEAS, the compliance by Member States with operational standards, guidelines and best practices on asylum and to verify the functioning of the asylum and reception systems of Member States. The monitoring and assessment should be comprehensive and should be based, in particular, on information provided by Member States, *non-governmental organisations at national or Union level, the UNHCR and relevant United Nations (UN) human rights treaty monitoring bodies and Council of Europe human rights monitoring mechanisms*, information analysis on the situation of asylum developed by the Agency, on-site visits and case sampling.. The Agency should report its findings to the Management Board which in turn should adopt the report. The Executive Director should, after consultation with the Commission, make draft recommendations to the Member State concerned outlining the necessary measures to address serious shortcomings, which in turn shall be adopted by the Management Board as recommendations

Or. en

Amendment 3

Proposal for a regulation Recital 16 a (new)

Text proposed by the Commission

Amendment

(16 a) Experts deployed in asylum support teams must have successfully concluded the thematic and specialist training relevant to their duties and functions prior to their participation in operational activities. Experts from the Agency's own staff should be involved in the examination of applications for international protection only where they

can demonstrate relevant experience of at least one year as a caseworker in the asylum administration of a Member State or as a UNHCR protection officer. Any activity undertaken by members of the asylum support teams should fully comply with the Charter of Fundamental Rights of the European Union (the Charter), in particular Article 18 on the right to asylum.

Or. en

Amendment 4

Proposal for a regulation Recital 20

Text proposed by the Commission

(20) At particular areas of the external borders where Member States face disproportionate migratory pressures characterised by large influxes of mixed migratory flows, referred to as hotspot areas, the Member States should be able to rely on increased operational and technical reinforcement by migration management support teams composed of teams of experts from Member States deployed through the European Union Agency for Asylum, the European *Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union* and Europol or other relevant Union agencies, as well as experts from the staff of the European Union Agency for Asylum and the European Agency *for the Management of Operational Cooperation at the External Borders of the Member States of the European Union*. The Agency should ensure coordination of its activities in the migration management support teams with the Commission and the other relevant Union agencies.

Amendment

(20) At particular areas of the external borders where Member States face disproportionate migratory pressures characterised by large influxes of mixed migratory flows, referred to as hotspot areas, the Member States should be able to rely on increased operational and technical reinforcement by migration management support teams composed of teams of experts from Member States deployed through the European Union Agency for Asylum, the European *Border and Coast Guard Agency* and Europol or other relevant Union agencies, as well as experts from the staff of the European Union Agency for Asylum and the European *Border and Coast Guard Agency*. The Agency should ensure coordination of its activities in the migration management support teams with the Commission and the other relevant Union agencies. *Any activity undertaken by members of the migration management support teams should fully comply with the Charter, in particular Article 18 on the right to asylum.*

Justification

European Agency for the Management of Operational Cooperation at the External Borders of the European Union to be changed to European Border and Coast Guard Agency throughout the text.

Amendment 5**Proposal for a regulation****Recital 25***Text proposed by the Commission*

(25) The European Union Agency for Asylum should maintain a close dialogue with civil society with a view to exchanging information and pooling knowledge in the field of asylum. The Agency should set up a Consultative Forum which should constitute a mechanism for the exchange of information and the sharing of knowledge. The Consultative Forum should *assist* the Executive Director and the Management Board in matters covered by this Regulation.

Amendment

(25) The European Union Agency for Asylum should maintain a close dialogue with civil society with a view to exchanging information and pooling knowledge in the field of asylum. The Agency should set up a Consultative Forum which should constitute a mechanism for the exchange of information and the sharing of knowledge. The Consultative Forum should *advise* the Executive Director and the Management Board in matters covered by this Regulation.

Or. en

Amendment 6**Proposal for a regulation****Recital 26 a (new)***Text proposed by the Commission**Amendment*

(26 a) An independent fundamental rights officer should be appointed to promote the respect of fundamental rights within the Agency, including by drawing up the Agency's fundamental rights strategy and by handling complaints received by the Agency under the complaint mechanism.

Amendment 7**Proposal for a regulation
Recital 26 b (new)***Text proposed by the Commission**Amendment*

(26 b) The operating procedures and methods established by the European Union Agency for Asylum should facilitate, where relevant, the involvement of Member States, Union agencies and external experts, in particular from the UNHCR and non-governmental organisations, in the development of, inter alia, training materials, country of origin reports, guidelines, operational standards and best practices as referred to in Articles 7, 8, 9, 10, 11 and 12 of this Regulation.

Or. en

Amendment 8**Proposal for a regulation
Recital 36***Text proposed by the Commission**Amendment*

(36) Regulation (EU) **No XXX/2016** of the European Parliament and of the Council ¹⁷ on the protection of individuals with regard to the processing of personal data and on the free movement of such data applies to the processing of personal data by the Member States carried out in application of this Regulation unless such processing is carried out by the designated or verifying competent authorities of the Member States for the purposes of the prevention, investigation, detection or prosecution of terrorist offences or of other

(36) Regulation (EU) **No 2016/679** of the European Parliament and of the Council ¹⁷ on the protection of individuals with regard to the processing of personal data and on the free movement of such data applies to the processing of personal data by the Member States carried out in application of this Regulation unless such processing is carried out by the designated or verifying competent authorities of the Member States for the purposes of the prevention, investigation, detection or prosecution of terrorist offences or of other

serious criminal offences including the safeguarding against and the prevention of threats to public security.

¹⁷ OJ L [...]

serious criminal offences including the safeguarding against and the prevention of threats to public security.

¹⁷ *Regulation (EU) 2016/679 of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), OJ L 119, 4.5.2016, p. 1.*

Or. en

Amendment 9

Proposal for a regulation Recital 37

Text proposed by the Commission

(37) Directive **2016/XXX/EU** of the European Parliament and of the Council ¹⁸ on the protection of individuals with regard to the processing of personal data by competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and the free movement of such data applies to the processing of personal data by competent authorities of the Member States for the purposes of the prevention, investigation detection or prosecution of terrorist offences or of other serious criminal offences pursuant to this Regulation.

¹⁸ OJ L [...]

Amendment

(37) Directive **2016/680/EU** of the European Parliament and of the Council ¹⁸ on the protection of individuals with regard to the processing of personal data by competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and the free movement of such data applies to the processing of personal data by competent authorities of the Member States for the purposes of the prevention, investigation detection or prosecution of terrorist offences or of other serious criminal offences pursuant to this Regulation.

¹⁸ *Directive (EU) 2016/680 of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of*

such data, and repealing Council Framework Decision 2008/977/JHA, OJ L 119, 4.5.2016, p. 89.

Or. en

Amendment 10

Proposal for a regulation Recital 46

Text proposed by the Commission

(46) The competence to take decisions by Member States' asylum authorities on individual applications for international protection remains with Member States.

Amendment

(46) The competence to take decisions by Member States' asylum authorities on individual applications for international protection remains with Member States. ***This does not preclude, however, the joint processing of applications for individual protection by a Member State and the Agency at the request of the Agency and within the framework set out in an operational plan agreed between the host Member State and the Agency.***

Or. en

Amendment 11

Proposal for a regulation Article 2 – paragraph 1 – point d

Text proposed by the Commission

(d) assist Member States ***on*** training of experts from all national administrations, courts and tribunals, and national services responsible for asylum matters, including the development of a common core curriculum;

Amendment

(d) assist ***and provide*** Member States ***with*** training of experts from all national administrations, courts and tribunals, and national services responsible for asylum matters, including the development of a common core curriculum;

Or. en

Amendment 12

Proposal for a regulation

Article 3 – paragraph 2

Text proposed by the Commission

2. The Agency shall work closely with the Member States' asylum authorities, with national immigration and asylum services and other national services and with the Commission. The Agency shall carry out its duties without prejudice to those assigned to other relevant bodies of the Union and shall work closely with those bodies and with the United Nations High Commissioner for Refugees (UNHCR).

Amendment

2. The Agency shall work closely with the Member States' asylum authorities, with national immigration and asylum services and other national services and with the Commission. The Agency shall carry out its duties without prejudice to those assigned to other relevant bodies of the Union and shall work closely with those bodies and with the United Nations High Commissioner for Refugees (UNHCR) ***and relevant non-governmental organisations.***

Or. en

Amendment 13

Proposal for a regulation

Article 3 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3 a. Where it is established that a Member State's asylum authorities, national immigration and asylum services and other national services systematically fail to comply with the duty to cooperate in good faith, including the duty to provide timely and accurate information in accordance with Regulation (EC) No 862/2007 of the European Parliament and of the Council^{1a}, the Executive Director shall submit a report to the Management Board and the Commission and include such information in the annual activity report on the situation of asylum in the Union under Article 65 of this Regulation.

^{1a} ***Regulation (EC) No 862/2007 of 11***

July 2007 on Community statistics on migration and international protection and repealing Council Regulation (EEC) No 311/76 on the compilation of statistics on foreign workers, OJ L 199, 31.7.2007, p. 23–29.

Or. en

Amendment 14

Proposal for a regulation

Article 4 – paragraph 2 – subparagraph 1

Text proposed by the Commission

The Agency shall base its analysis on information provided, in particular, by Member States, relevant Union institutions and agencies, the European External Action Service as well as UNHCR and other international organisations.

Amendment

The Agency shall base its analysis on information provided, in particular, by Member States, relevant Union institutions and agencies, the European External Action Service as well as UNHCR and other international ***and non-governmental*** organisations.

Or. en

Amendment 15

Proposal for a regulation

Article 4 – paragraph 2 – subparagraph 2

Text proposed by the Commission

For this purpose, the Agency shall work in close collaboration with the European ***Agency for the Management of Operational Cooperation at the External Borders of the Member States, and shall, in particular, rely on the risk analysis carried out by that Agency so as*** to ensure the highest level of consistency and convergence in the information provided by both Agencies.

Amendment

For this purpose, the Agency shall work in close collaboration with the European ***Border and Coast Guard*** Agency to ensure the highest level of consistency and convergence in the information provided by both Agencies.

Or. en

Amendment 16

Proposal for a regulation Article 7 – paragraph 2

Text proposed by the Commission

2. The Agency shall develop such training in close cooperation with Member States and, in cooperation with appropriate training entities in the Member States, including academic institutions and other relevant organisations.

Amendment

2. The Agency shall develop such training in close cooperation with Member States ***and, where appropriate, the European Border and Coast Guard Agency and the European Union Agency for Fundamental Rights*** and, in cooperation with appropriate training entities in the Member States, including academic institutions and other relevant ***organisations, such as the UNHCR, national and international associations of judges and other relevant non-governmental*** organisations.

Or. en

Amendment 17

Proposal for a regulation Article 7 – paragraph 5 – point g a (new)

Text proposed by the Commission

Amendment

(g a) resettlement, including with regard to selection missions, the provision of pre-departure information and post arrival support;

Or. en

Amendment 18

Proposal for a regulation Article 7 – paragraph 5 – point g b (new)

Text proposed by the Commission

Amendment

(g b) issues related to the processing of applications for international protection related to gender, gender identity and sexual orientation;

Or. en

Amendment 19

Proposal for a regulation

Article 7 – paragraph 5 – point g c (new)

Text proposed by the Commission

Amendment

(g c) issues related to the content of international protection, the rights of persons granted international protection and integration support;

Or. en

Amendment 20

Proposal for a regulation

Article 7 – paragraph 5 – point g d (new)

Text proposed by the Commission

Amendment

(g d) professional development series for members of courts and tribunals;

Or. en

Amendment 21

Proposal for a regulation

Article 7 – paragraph 5 – point g e (new)

Text proposed by the Commission

Amendment

(g e) other relevant issues, if necessary, on the basis of a decision of the Management Board.

Or. en

Amendment 22

Proposal for a regulation Article 7 – paragraph 7

Text proposed by the Commission

Amendment

7. The Agency shall **take the necessary initiatives to ensure that** the experts who participate in the asylum support teams and the asylum intervention pool, **have received** specialist training relevant to their duties and functions prior to their participation in the operational activities organised by the Agency. The Agency 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 Agency shall **provide** the experts who participate in the asylum support teams and the asylum intervention pool **with the** specialist training relevant to their duties and functions prior to their participation in the operational activities organised by the Agency. The Agency shall conduct regular exercises with those experts in accordance with the specialist training and exercise schedule referred to in its annual work programme.

Or. en

Amendment 23

Proposal for a regulation Article 8 – paragraph 1

Text proposed by the Commission

Amendment

1. The Agency shall be a centre for gathering relevant, reliable, accurate and up-to date information on countries of origin of persons applying for international protection, including child-specific information and targeted information on persons belonging to vulnerable groups. It

1. The Agency shall be a centre for gathering relevant, reliable, accurate and up-to date information on countries of origin of persons applying for international protection, including child-specific, **gender-specific and sexual orientation-specific** information and targeted

shall draw up and regularly update reports and other products providing for information on countries of origin at the level of the Union including on thematic issues specific to countries of origin.

information on persons belonging to vulnerable groups **and minorities**. It shall draw up and regularly update reports and other products providing for information on countries of origin at the level of the Union including on thematic issues specific to countries of origin.

Or. en

Amendment 24

Proposal for a regulation

Article 8 – paragraph 2 – point a

Text proposed by the Commission

(a) make use of all relevant sources of information, including its information analysis on the situation of asylum and other information gathered from governmental, non-governmental and international organisations, including through **the** networks referred to in Article 9, as well as Union institutions, agencies, bodies, offices and the European External Action Service;

Amendment

(a) make use of all relevant sources of information, including its information analysis on the situation of asylum and other information gathered from governmental, non-governmental and international organisations, **such as the UNHCR** including through networks referred to in Article 9 **of this Regulation, fact finding missions coordinated by the Agency**, as well as Union institutions, agencies, bodies, offices and the European External Action Service;

Or. en

Amendment 25

Proposal for a regulation

Article 8 – paragraph 2 – point b

Text proposed by the Commission

(b) manage and further develop a portal for gathering information on countries of origin;

Amendment

(b) manage and further develop a **publicly accessible** portal for gathering **and disseminating** information on countries of origin;

Or. en

Amendment 26

Proposal for a regulation

Article 8 – paragraph 2 – point c

Text proposed by the Commission

(c) develop a common format and a common methodology including terms of reference, ***in line with the requirements of Union law on asylum***, for developing reports and other products with information on countries of origin at the level of the Union.

Amendment

(c) develop a common format and a common methodology including terms of reference for developing reports and other products with information on countries of origin at the level of the Union ***in line with the requirements of international and Union law on asylum with the involvement of external experts in particular from the UNHCR, academia and relevant non-governmental organisations.***

Or. en

Amendment 27

Proposal for a regulation

Article 9 – title

Text proposed by the Commission

European networks on country of origin information

Amendment

Network approach on country of origin information

Or. en

Amendment 28

Proposal for a regulation

Article 10 – paragraph 1

Text proposed by the Commission

1. To foster convergence in applying the assessment criteria established in Directive 2011/95/EU of the European Parliament and of the Council,²² the

Amendment

1. To foster convergence in applying the assessment criteria established in Directive 2011/95/EU of the European Parliament and of the Council,²² the

Agency shall coordinate efforts among Member States to engage in and develop a common analysis providing guidance on the situation in specific countries of origin.

Agency shall coordinate efforts among Member States to engage in and develop a common analysis providing guidance on the situation in specific countries of origin.

The Agency shall ensure that such common analysis takes full account of the most recent UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from specific countries of origin and of UNHCR country/situation specific position papers, if available.

²² Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast) (OJ L 337, 20.12.2011, p. 9).

²² Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast) (OJ L 337, 20.12.2011, p. 9).

Or. en

Amendment 29

Proposal for a regulation Article 10 – paragraph 2

Text proposed by the Commission

2. The Executive Director shall, after consulting the Commission, submit that common analysis to the Management Board for endorsement. Member States shall be required to take that common analysis into account when examining applications for international protection, without prejudice to their competence for deciding on individual applications.

Amendment

2. The Executive Director shall, after consulting the Commission, ***the UNHCR and the Consultative Forum***, submit that common analysis to the Management Board for endorsement. Member States shall be required to take that common analysis into account when examining applications for international protection, without prejudice to their competence for deciding on individual applications.

Or. en

Amendment 30

Proposal for a regulation Article 10 – paragraph 3

Text proposed by the Commission

3. The Agency shall ensure that the common analysis is kept constantly under review and updated *to the extent* necessary. Any such revision shall likewise require prior consultation of the Commission *and* endorsement *by* the Management Board.

Amendment

3. The Agency shall ensure that the common analysis is kept constantly under review and updated *as* necessary. Any such revision shall likewise require prior consultation of the Commission, *the UNHCR and the Consultative Forum and the endorsement of* the Management Board.

Or. en

Amendment 31

Proposal for a regulation Article 10 – paragraph 4 – introductory part

Text proposed by the Commission

4. The Member States shall, on a monthly basis, submit to the Agency relevant information on the decisions taken in relation to applicants for international protection originating from third countries subject to the common analysis. That information shall, in particular, include:

Amendment

4. The Member States shall, on a monthly basis, submit to the Agency *all* relevant information on the decisions taken in relation to applicants for international protection originating from third countries subject to the common analysis. That information shall, in particular, include:

Or. en

Amendment 32

Proposal for a regulation Article 10 – paragraph 4 – point c a (new)

Text proposed by the Commission

Amendment

(c a) data on the type of protection granted and a summary of the criteria

used for granting or refusing international protection.

Or. en

Amendment 33

Proposal for a regulation

Article 11 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. Information provided by the Agency in the context of paragraphs 1 and 2 of this Article shall be compiled in accordance with the general principles provided for in Article 8 of this Regulation and shall take into account information received from the UNHCR, United Nations human rights treaty monitoring bodies, Council of Europe human rights monitoring mechanisms, the International Committee of the Red Cross (ICRC), relevant non-governmental organisations and other relevant independent and reliable sources.

Or. en

Amendment 34

Proposal for a regulation

Article 12 – paragraph 2

Text proposed by the Commission

Amendment

2. The Agency shall, on its own initiative or at the request of the Commission, and in consultation with the Commission, develop operational standards on the implementation of the instruments of Union law on asylum and indicators for monitoring compliance with those operational standards as well as guidelines and best practices related to the

2. The Agency shall, on its own initiative or at the request of the Commission, and in consultation with the Commission develop operational standards on the implementation of the instruments of Union law on asylum and indicators for monitoring compliance with those operational standards as well as guidelines and best practices related to the

implementation of the instruments of Union law on asylum. The Agency shall, following consultation with the Commission and after adoption by the Management Board, communicate those standards, indicators, guidelines or best practices to the Member States.

implementation of the instruments of Union law on asylum. ***In developing these guidelines, the Agency shall consult with relevant judicial bodies and associations to ensure full respect for the independence of the judiciary.*** The Agency shall, following consultation with the Commission and after adoption by the Management Board, communicate those standards, indicators, guidelines or best practices to the Member States.

Or. en

Amendment 35

Proposal for a regulation

Article 12 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. The operational standards, indicators, guidelines and best practices mentioned in paragraphs 1 and 2 of this Article shall be developed in consultation with the UNHCR and non-governmental organisations, where relevant.

Or. en

Amendment 36

Proposal for a regulation

Article 12 – paragraph 3

Text proposed by the Commission

Amendment

3. The Agency shall, at the request of Member States, assist them to apply the operational standards, guidelines and best practices to their asylum and reception systems by providing the necessary expertise or operational and technical assistance.

3. The Agency shall, at the request of Member States, assist them to apply the operational standards, guidelines and best practices to their asylum and reception systems by providing the necessary expertise or operational and technical assistance ***in accordance with Article 16 of this Regulation.***

Amendment 37

Proposal for a regulation

Article 13 – paragraph 1 – introductory part

Text proposed by the Commission

1. The Agency, in close cooperation with the Commission, shall establish a mechanism to:

Amendment

1. The Agency, in close cooperation with the Commission **and relevant non-governmental organisations**, shall establish a mechanism to:

Or. en

Amendment 38

Proposal for a regulation

Article 13 – paragraph 1 – point a

Text proposed by the Commission

(a) monitor the implementation and assess all aspects of the CEAS in Member States, in particular the Dublin system, reception conditions, asylum procedures, the application of criteria determining protection needs and the nature and quality of protection afforded to persons in need of international protection by Member States, including as regards the respect of fundamental rights, child protection safeguards and the needs of vulnerable persons;

Amendment

(a) monitor the implementation and assess all aspects of the CEAS in Member States, in particular the Dublin system, reception conditions, **detention of asylum seekers**, asylum procedures, **including legal assistance**, the application of criteria determining protection needs and the nature and quality of protection afforded to persons in need of international protection by Member States, including as regards the respect of fundamental rights, child protection safeguards and the needs of vulnerable persons **and resettlement**;

Or. en

Amendment 39

Proposal for a regulation

Article 13 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. *For the purposes of paragraph 1, the Agency shall receive anonymised data from the relevant EU IT systems, such as Eurodac, VIS, SIS II and Entry-Exit in real time.*

Or. en

Amendment 40

Proposal for a regulation

Article 13 – paragraph 2 – subparagraph 1

Text proposed by the Commission

The Agency *may*, in particular, base its assessment on information provided by Member States, information analysis on the situation of asylum developed by the Agency, on-site visits and case sampling.

Amendment

The Agency *shall*, in particular, base its assessment on information provided by Member States, information analysis on the situation of asylum developed by the Agency, on-site visits and case sampling, *assessments provided by non-governmental organisations at national or Union level, the UNHCR and other relevant United Nations human rights treaty monitoring bodies or Council of Europe human rights monitoring mechanisms.*

Or. en

Amendment 41

Proposal for a regulation

Article 13 – paragraph 3

Text proposed by the Commission

3. The Agency shall assess the readiness of Member States to meet challenges from possible disproportionate pressure on their asylum and reception systems. The Agency may request Member

Amendment

3. The Agency shall assess the readiness of Member States to meet challenges from possible disproportionate pressure on their asylum and reception systems. The Agency may request Member

States to provide it with their contingency planning for measures to be taken to deal with such possible disproportionate pressure and shall assist Member States to prepare and review their contingency planning, where necessary.

States to provide it with their contingency planning for measures to be taken to deal with such possible disproportionate pressure and shall assist Member States to prepare and review their contingency planning, *in accordance with Article 16 of this Regulation*, where necessary.

Or. en

Amendment 42

Proposal for a regulation

Article 14 – paragraph 1 – subparagraph 1

Text proposed by the Commission

The *Management Board* shall, in consultation with the Commission, set the programme for monitoring and assessing the asylum and reception systems *in each Member State, or of all Member States on the basis of thematic or specific aspects of the asylum systems*. That programme shall form part of the multi-annual and annual programming referred to in Article 41.

Amendment

The *Agency* shall, in consultation with the Commission, set the programme for monitoring and assessing the asylum and reception systems *of Member States*. That programme shall form part of the multi-annual and annual programming referred to in Article 41 *of this Regulation, as follows*:

Or. en

Amendment 43

Proposal for a regulation

Article 14 – paragraph 1 – subparagraph 1 – point a (new)

Text proposed by the Commission

Amendment

(a) *the multi-annual programming shall list the Member States whose asylum and reception systems are to be monitored each year, ensuring that each Member State is monitored at least once in every five-year period.*

Or. en

Amendment 44

Proposal for a regulation

Article 14 – paragraph 1 – subparagraph 1 – point b (new)

Text proposed by the Commission

Amendment

(b) the annual work programme shall list the Member States to be monitored the following year in accordance with the multi-annual programming and in addition any thematic assessments in one or more Member States, that is considered necessary, in the following year based on the information analysis drawn up in accordance with Article 4 of this Regulation. It shall include an indication of what the monitoring is to consist of and a schedule for any on-site visits.

Or. en

Amendment 45

Proposal for a regulation

Article 14 – paragraph 1 – subparagraph 1 – point c (new)

Text proposed by the Commission

Amendment

(c) The Agency may initiate a monitoring exercise for the assessment of the asylum or reception systems of a Member State on its own initiative or at the request of the Commission where there are serious concerns regarding the functioning of any aspect of that Member State's asylum or reception systems.

Or. en

Amendment 46

Proposal for a regulation

Article 14 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Amendment

The multi-annual programming shall list the Member States whose asylum and reception systems shall be monitored each year, ensuring that each Member State shall be monitored at least once in every five-year period.

deleted

Or. en

Amendment 47

Proposal for a regulation

Article 14 – paragraph 1 – subparagraph 3

Text proposed by the Commission

Amendment

The annual work programme shall list the Member States to be monitored the following year in accordance with the multi-annual programming and the thematic assessments. It shall include an indication of what the monitoring shall consist of and a schedule for any on-site visits.

deleted

Or. en

Amendment 48

Proposal for a regulation

Article 14 – paragraph 1 – subparagraph 4

Text proposed by the Commission

Amendment

The annual work programme may be adapted if necessary in accordance with Article 41.

deleted

Or. en

Amendment 49

Proposal for a regulation

Article 14 – paragraph 1 – subparagraph 5

Text proposed by the Commission

The Agency may initiate a monitoring exercise for the assessment of the asylum or reception systems of a Member State on its own initiative or at the request of the Commission whenever there are serious concerns regarding the functioning of any aspect of that Member State's asylum or reception systems.

Amendment

deleted

Or. en

Amendment 50

Proposal for a regulation

Article 14 – paragraph 2

Text proposed by the Commission

2. The Agency shall set up teams of experts for each monitoring exercise, including for the on-site visits as necessary. The teams of experts *shall* be composed of experts from the Agency's own staff and Commission representatives. The team of experts shall be responsible for drawing up a report based on the findings of on-site visits and information provided by Member States.

Amendment

2. The Agency shall set up teams of experts for each monitoring exercise, including for the on-site visits as necessary. The teams of experts *may* be composed of experts from the Agency's own staff and Commission representatives. The team of experts shall be responsible for drawing up a report based on the findings of on-site visits and information provided by Member States *as well as experts of non-governmental organisations and the UNHCR.*

Or. en

Amendment 51

Proposal for a regulation

Article 14 – paragraph 3

Text proposed by the Commission

3. The Executive Director shall transmit the draft report of the team of experts to the Member State concerned, which shall provide its comments on that draft report. The Executive Director shall then **submit** the draft report, taking into account the comments of the Member State concerned, **to the Management Board. The Management Board shall adopt the monitoring report and transmit it to the Commission.**

Amendment

3. The Executive Director shall transmit the draft report of the team of experts to the Member State concerned, which shall provide its comments on that draft report. The Executive Director shall then **finalise** the draft report **after** taking into account the comments of the Member State concerned **and transmit it to the European Parliament and the Commission.**

Or. en

Amendment 52

**Proposal for a regulation
Article 14 – paragraph 4**

Text proposed by the Commission

4. The Executive Director, after consultation with the Commission, shall submit draft recommendations to the Member State concerned outlining the necessary measures to address shortcomings identified in the monitoring report. The Member State concerned shall be given one month to comment on the draft recommendations. After giving consideration to those comments, the Management Board shall adopt the recommendations and it shall invite the Member State concerned to draw up an action plan outlining the measures to remedy any shortcomings.

Amendment

4. The Executive Director, after consultation with the Commission, shall submit draft recommendations to the Member State concerned outlining the necessary measures to address shortcomings identified in the monitoring report. The Member State concerned shall be given one month to comment on the draft recommendations **and ten days in the event of the situation referred to in point (c) of paragraph 1.** After giving consideration to those comments, the Management Board shall adopt the recommendations and it shall invite the Member State concerned to draw up an action plan outlining the measures to remedy any shortcomings.

Or. en

Amendment 53

Proposal for a regulation Article 14 – paragraph 5

Text proposed by the Commission

5. The Member State concerned shall provide the Agency with an action plan within one month from adoption of the recommendations referred to in paragraph 4. That Member State shall report to the Agency on the implementation of the action plan within three months from the adoption of the recommendations and *shall* thereafter continue to report every month for a maximum of six months.

Amendment

5. The Member State concerned shall provide the Agency with an action plan within one month from adoption of the recommendations referred to in paragraph 4 *and fifteen days in the event of the situation referred to in point (c) of paragraph 1*. That Member State shall report to the Agency on the implementation of the action plan within three months from the adoption of the recommendations and *45 days in the event of the situation referred to in point (c) of paragraph 1*. Thereafter *it shall* continue to report every month for a maximum of six months.

Or. en

Amendment 54

Proposal for a regulation Article 16 – paragraph 3 – point c

Text proposed by the Commission

(c) provide assistance to competent national authorities responsible for the examination of applications for international protection;

Amendment

(c) provide assistance to competent national authorities responsible for the examination of applications for international protection, *including by means of joint processing if requested by the Member State concerned*;

Or. en

Amendment 55

Proposal for a regulation Article 16 – paragraph 3 – point j a (new)

Text proposed by the Commission

Amendment

(j a) provide assistance to the courts and tribunals of the Member States concerned by deploying judges with expertise in asylum law from other Member States;

Or. en

Amendment 56

Proposal for a regulation

Article 16 – paragraph 3 – point j b (new)

Text proposed by the Commission

Amendment

(j b) assist with the referral mechanism, the identification of and safeguards for vulnerable groups, including victims of trauma, persecution related to gender or sexual orientation, serious human right violations and victims of trafficking, and with the provision of adequate assistance to such vulnerable groups.

Or. en

Amendment 57

Proposal for a regulation

Article 16 – paragraph 5

Text proposed by the Commission

Amendment

5. The Executive Director shall evaluate the result of the operational and technical measures and shall transmit detailed evaluation reports to the Management Board within 60 days from the end of those measures. The Agency shall make a comprehensive comparative analysis of those results which shall be included in the annual activity report

5. The Executive Director shall, ***based on a reporting and evaluation scheme containing indicators and benchmarks for the evaluation, including with regard to the protection of fundamental rights, and taking into account, where available, information from other Union agencies and bodies and from other sources such as the UNHCR and non-governmental***

referred to in Article 65.

organisations, evaluate the result of the operational and technical measures and shall transmit detailed evaluation reports to the Management Board within 60 days from the end of those measures. The Agency shall make a comprehensive comparative analysis of those results which shall be included in the annual activity report referred to in Article 65.

Or. en

Amendment 58

Proposal for a regulation Article 17 – paragraph 4

Text proposed by the Commission

4. Member States shall contribute to the asylum support teams through a national expert pool on the basis of the various defined profiles and by nominating experts corresponding to the required profiles.

Amendment

4. Member States shall contribute to the asylum support teams through a national expert pool on the basis of the various defined profiles and by nominating experts corresponding to the required profiles. ***Expert members of courts and tribunals shall be nominated by the relevant judicial bodies.***

Or. en

Amendment 59

Proposal for a regulation Article 17 – paragraph 7

Text proposed by the Commission

7. Member States shall ensure that the experts that they contribute match the profiles and numbers decided upon by the Management Board. The duration of deployment shall be determined by the home Member State but it shall not be less than **30** days.

Amendment

7. Member States shall ensure that the experts that they contribute match the profiles and numbers decided upon by the Management Board. The duration of deployment shall be determined by the home Member State but it shall not be less than **60** days.

Amendment 60

Proposal for a regulation Article 18 – paragraph 3

Text proposed by the Commission

3. Member States shall contribute to the asylum intervention pool through a national expert pool on the basis of the various defined profiles and by nominating experts corresponding to the required profiles. The duration of deployment shall be determined by the home Member State but it shall not be less than **30** days.

Amendment

3. Member States shall contribute to the asylum intervention pool through a national expert pool on the basis of the various defined profiles and by nominating experts corresponding to the required profiles. The duration of deployment shall be determined by the home Member State but it shall not be less than **60** days.

Or. en

Amendment 61

Proposal for a regulation Article 18 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3 a. The Agency may verify whether the experts proposed by Member States correspond to the defined profiles and qualifications and shall decide on the experts to be chosen from the asylum intervention pool. The Agency may request the Member State to remove an expert from the asylum intervention pool where those requirements are not met or in case of misconduct or infringement of the applicable deployment rules.

Or. en

Amendment 62

Proposal for a regulation

Article 19 – paragraph 2 – point c a (new)

Text proposed by the Commission

Amendment

(c a) *the territorial scope of asylum support teams, where such teams are to be mobile;*

Or. en

Amendment 63

Proposal for a regulation

Article 19 – paragraph 2 – point e

Text proposed by the Commission

Amendment

(e) a detailed and clear description of the tasks and special instructions for the asylum support teams or experts from the asylum intervention pool, including the national and European databases that they are authorised to consult and the equipment that they may use or carry in the host Member State;

(e) a detailed and clear description of the tasks and ***responsibilities, including with regard to the respect for fundamental rights*** and special instructions for the asylum support teams or experts from the asylum intervention pool, including the national and European databases that they are authorised to consult and the equipment that they may use or carry in the host Member State;

Or. en

Amendment 64

Proposal for a regulation

Article 19 – paragraph 2 – point i

Text proposed by the Commission

Amendment

(i) a reporting and evaluation scheme containing benchmarks for the evaluation report and final date of submission of the final evaluation report;

(i) a reporting and evaluation scheme containing benchmarks for the evaluation report, ***including with regard to respect of fundamental rights***, and final date of submission of the final evaluation report;

Amendment 65

Proposal for a regulation

Article 19 – paragraph 2 – point j

Text proposed by the Commission

(j) modalities of cooperation with third countries, other Union agencies, bodies, offices or international organisations;

Amendment

(j) modalities of cooperation with third countries, other Union agencies, bodies, offices or international organisations ***in areas where those actors have similar mandates***;

Or. en

Amendment 66

Proposal for a regulation

Article 19 – paragraph 2 – point k

Text proposed by the Commission

(k) procedures whereby persons in need of international protection, victims of trafficking in human beings, unaccompanied minors and persons in a vulnerable situation are directed to the competent national authorities for appropriate assistance.

Amendment

(k) procedures whereby persons in need of international protection, victims of trafficking in human beings, unaccompanied minors and persons in a vulnerable situation are ***identified and*** directed to the competent national authorities for appropriate assistance.

Or. en

Amendment 67

Proposal for a regulation

Article 19 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. In Members States where the UNHCR is operational and has the capacity to contribute to the request for

operational and technical assistance, the Agency shall consult and coordinate with the UNHCR as regards the development and implementation of the operational plan.

Or. en

Amendment 68

Proposal for a regulation Article 20 – paragraph 6

Text proposed by the Commission

6. The Executive Director shall, after informing the host Member State, suspend or terminate the deployment of the asylum support teams if the conditions to carry out the operational and technical measures are no longer fulfilled or if the operational plan is not respected by the host Member State.

Amendment

6. The Executive Director shall, after informing the host Member State, suspend or terminate the deployment of the asylum support teams if the conditions to carry out the operational and technical measures are no longer fulfilled or if the operational plan is not respected by the host Member State ***or if after consulting the fundamental rights officer, he or she considers that there are breaches of fundamental rights or international protection obligations that are of a serious nature or are likely to persist.***

Or. en

Amendment 69

Proposal for a regulation Article 22 – paragraph 2

Text proposed by the Commission

2. The experts of the asylum intervention pool shall be deployed in accordance with the procedure set out in Article 20 provided however that experts shall be ***deployed*** from each Member State within three working days from the date on which the operational plan is agreed upon

Amendment

2. The experts of the asylum intervention pool shall be deployed in accordance with the procedure set out in Article 20 provided however that experts shall be ***made available for deployment*** from each Member State within three working days from the date on which the

by the Executive Director and the Member State requesting assistance. The Member States may not invoke the exception provided for in Article 17(6).

operational plan is agreed upon by the Executive Director and the Member State requesting assistance. The Member States may not invoke the exception provided for in Article 17(6).

Or. en

Amendment 70

Proposal for a regulation

Article 22 – paragraph 7 a (new)

Text proposed by the Commission

Amendment

7 a. The Agency may enter into standby agreements with international and non-governmental organisations to draw on their capacity and technical expertise in order to complement the Agency's capacity to provide operational support. Where necessary, the Agency may deploy experts from these organisations until suitable Member State experts are available. Prior to their deployment, experts from these organisations shall participate in specialist training relevant to their duties and functions organised by the Agency in accordance with Article 7(7) of this Regulation.

Or. en

Amendment 71

Proposal for a regulation

Article 28 – paragraph 1 – point a a (new)

Text proposed by the Commission

Amendment

(a a) internal transport between different regions of the host Member State;

Amendment 72

Proposal for a regulation

Article 28 – paragraph 1 – point f a (new)

Text proposed by the Commission

Amendment

*(f a) car rental and all related costs,
such as insurance, fuel and tolls;*

Or. en

Amendment 73

Proposal for a regulation

Article 28 – paragraph 1 – point f b (new)

Text proposed by the Commission

Amendment

(f b) communication costs;

Or. en

Amendment 74

Proposal for a regulation

Article 28 – paragraph 1 – point f c (new)

Text proposed by the Commission

Amendment

(f c) interpretation costs.

Or. en

Amendment 75

Proposal for a regulation

Article 30 – paragraph 2

Text proposed by the Commission

2. ***The Management Board shall establish measures for the application of Regulation (EC) No 45/2001 by the Agency, including those concerning the appointment of a Data Protection Officer of the Agency. Those measures shall be established after consultation of the European Data Protection Supervisor.***

Amendment

2. ***A Data Protection Officer shall be appointed in accordance with Regulation (EC) No 45/2001. The Management Board shall establish measures for the application of that Regulation by the Agency. Those measures shall be established after consultation of the European Data Protection Supervisor.***

Or. en

Amendment 76

Proposal for a regulation Article 32 – paragraph 3

Text proposed by the Commission

3. The personal data shall be deleted as soon as they have been transmitted to the European Agency for the Management of Operational Cooperation at the External Borders of the Member States, Europol or Eurojust or to the competent authorities of Member States or used for information analysis on the situation of asylum. The storage period shall in any case not exceed **30** days after the date on which the Agency collects or receives those data. In the result of the information analysis on the situation of asylum, data shall not allow for the identification of a natural person at any time.

Amendment

3. The personal data shall be deleted as soon as they have been transmitted to the European Agency for the Management of Operational Cooperation at the External Borders of the Member States, Europol or Eurojust or to the competent authorities of Member States or used for information analysis on the situation of asylum. The storage period shall in any case not exceed **60** days after the date on which the Agency collects or receives those data. In the result of the information analysis on the situation of asylum, data shall not allow for the identification of a natural person at any time.

Or. en

Amendment 77

Proposal for a regulation Article 38 – paragraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(c a) a fundamental rights officer

Or. en

Amendment 78

Proposal for a regulation

Article 40 – paragraph 1 – point l

Text proposed by the Commission

Amendment

(l) appoint the Executive Director and Deputy Executive Director, exercise disciplinary authority over him or her and, where necessary, extend his or her term of office or remove him or her from office in accordance with Articles 45 and 47; *deleted*

Or. en

Amendment 79

Proposal for a regulation

Article 40 – paragraph 1 – point w

Text proposed by the Commission

Amendment

(w) adopt the draft report of the team of experts carrying out the monitoring exercise in accordance with Article 14(3); *deleted*

Or. en

Amendment 80

Proposal for a regulation

Article 45 – title

Text proposed by the Commission

Amendment

Executive Director

***Appointment of the Executive Director
and the Deputy Executive Director***

Or. en

Amendment 81

Proposal for a regulation Article 45 – paragraph 1

Text proposed by the Commission

Amendment

1. The Executive Director shall be ***a member*** of staff and shall be recruited as ***a*** temporary agent of the Agency in accordance with Article 2(a) of the Conditions of Employment of Other Servants.

1. The Executive Director ***and the Deputy Executive Director, who shall assist the Executive Director,*** shall be ***members*** of staff and shall be recruited as temporary ***agents*** of the Agency in accordance with Article 2(a) of the Conditions of Employment of Other Servants.

Or. en

Amendment 82

Proposal for a regulation Article 45 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Amendment

The Executive Director shall be appointed by the Management Board from a list of candidates proposed by the Commission, following an open and transparent selection procedure. The Executive Director shall be appointed on the ground of merit and documented high-level administrative and management skills as well as senior professional experience in the field of migration and asylum.

The European Parliament and the Council shall appoint by common accord the Executive Director and the Deputy Executive Director based on a list drawn up by the Commission following the publication of the post in the Official Journal of the European Union and other press or internet sites as appropriate.

Amendment 83

Proposal for a regulation

Article 45 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Amendment

For the purpose of concluding the contract with the Executive Director, the Agency shall be represented by the Chairperson of the Management Board.

deleted

Or. en

Amendment 84

Proposal for a regulation

Article 45 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. The Executive Director and the Deputy Executive Director shall be chosen on the grounds of merit, independence and documented high-level administrative and management skills, as well as senior professional experience in the field of migration and asylum.

Or. en

Amendment 85

Proposal for a regulation

Article 45 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2 b. The Executive Director and the Deputy Executive Director shall be eligible for reappointment.

Amendment 86

Proposal for a regulation

Article 45 – paragraph 2 c (new)

Text proposed by the Commission

Amendment

2 c. With the exception of normal replacement or death, the duties of the Executive Director and the Deputy Executive Director shall end in the event of resignation. The Executive Director and the Deputy Executive Director may be dismissed by the Court of Justice of the European Union at the request of the European Parliament, the Council or the Commission, if he or she no longer fulfils the conditions required for the performance of his or her duties or if he or she is found guilty of serious misconduct.

Or. en

Amendment 87

Proposal for a regulation

Article 45 – paragraph 3

Text proposed by the Commission

Amendment

3. Before appointment, the candidate selected by the Management Board may be invited to make a statement before the competent committee of the European Parliament and answer questions put by its members.

deleted

Or. en

Amendment 88

Proposal for a regulation Article 45 – paragraph 4

Text proposed by the Commission

4. The term of office of the Executive Director shall be five years. By the end of that period, the Commission shall undertake an assessment that takes into account an evaluation of the Executive Director's performance and the Agency's future tasks and challenges.

Amendment

4. The term of office of the **Deputy Executive Director and of the** Executive Director shall be five years. By the end of that period, the Commission shall undertake an assessment that takes into account an evaluation of the **Deputy Executive Director's and the** Executive Director's performance and the Agency's future tasks and challenges.

Or. en

Amendment 89

Proposal for a regulation Article 45 – paragraph 5

Text proposed by the Commission

5. **The Management Board, acting on a proposal from the Commission that takes into account the assessment referred to in paragraph 4, may extend the term of office of the Executive Director once for no more than five years.**

Amendment

deleted

Or. en

Amendment 90

Proposal for a regulation Article 45 – paragraph 6

Text proposed by the Commission

6. **The Management Board shall inform the European Parliament if it intends to extend the Executive Director's term of office. Within one month before**

Amendment

deleted

any such extension, the Executive Director may be invited to make a statement before the competent committee of the European Parliament and answer questions put by its members.

Or. en

Amendment 91

Proposal for a regulation Article 45 – paragraph 7

Text proposed by the Commission

Amendment

7. *An Executive Director whose term of office has been extended may not participate in another selection procedure for the same post at the end of the overall period.* **deleted**

Or. en

Amendment 92

Proposal for a regulation Article 45 – paragraph 8

Text proposed by the Commission

Amendment

8. *The Executive Director may be removed from office only upon a decision of the Management Board acting on a proposal from the Commission.* **deleted**

Or. en

Amendment 93

Proposal for a regulation Article 45 – paragraph 9

Text proposed by the Commission

Amendment

9. The Management Board shall take decisions on appointment, extension of the term of office or removal from office of the Executive Director by a two-thirds majority of its members with the right to vote.

deleted

Or. en

Amendment 94

Proposal for a regulation

Article 46 – paragraph 5 – point o

Text proposed by the Commission

Amendment

(o) submit draft **reports and draft** recommendations in the context of the monitoring exercise to the Member State concerned and subsequently to the Management Board in accordance with Article **14(3) and (4)**;

(o) submit draft recommendations in the context of the monitoring exercise to the Member State concerned and subsequently to the Management Board in accordance with Article **14(4) of this Regulation**;

Or. en

Amendment 95

Proposal for a regulation

Article 46 – paragraph 5 – point u a (new)

Text proposed by the Commission

Amendment

(u a) appointing the fundamental rights officer.

Or. en

Amendment 96

Proposal for a regulation Article 47

Original text

Amendment

Article 47

deleted

Deputy Executive Director

- 1. A Deputy Executive Director shall assist the Executive Director.*
- 2. The provisions of Article 45 shall apply to the Deputy Executive Director.*

Or. en

Amendment 97

Proposal for a regulation Article 47 a (new)

Text proposed by the Commission

Amendment

Article 47 a

Fundamental Rights Officer

- 1. A fundamental rights officer shall be appointed by the Executive Director, following consultation with the Management Board and the Consultative Forum. The fundamental rights officer shall have the necessary qualifications and experience in the field of fundamental rights. The fundamental rights officer shall be responsible for drawing up the fundamental rights strategy, monitoring compliance with fundamental rights and promoting the respect of fundamental rights within the Agency.*
- 2. The fundamental rights officer shall be independent in the performance of his or her duties as a fundamental rights officer, shall report directly to the Executive Director and cooperate with the Management Board and the Consultative*

Forum. The fundamental rights officer shall report on a regular basis and as such contribute to the mechanism for monitoring fundamental rights.

3. The fundamental rights officer shall be consulted on the operational plans drawn up in accordance with Article 19 of this Regulation and shall have access to all information concerning respect for fundamental rights, in relation to all the activities of the Agency.

Or. en

Amendment 98

Proposal for a regulation Article 48 – paragraph 3 – subparagraph 2

Text proposed by the Commission

On a proposal by the Executive Director, the Management Board shall decide on the composition *and working methods* of the Consultative Forum, *including thematic or geographic-focused consultation groups*, and the modalities of transmission of information to the Consultative Forum.

Amendment

On a proposal by the Executive Director, the Management Board shall decide on the composition of the Consultative Forum, *taking into consideration the knowledge, expertise, diversity of civil society organisation and relevance to the Agency's activities as well as* the modalities of transmission of information to the Consultative Forum. *The Consultative Forum shall, after consulting the Management Board and the Executive Director, define its working methods.*

Or. en

Amendment 99

Proposal for a regulation Article 48 – paragraph 4

Text proposed by the Commission

4. The Consultative Forum shall *assist*

Amendment

4. The Consultative Forum shall

the Executive Director and the Management Board in matters related to asylum, in accordance with specific needs in areas identified as a priority for the Agency's work.

advise the Executive Director and the Management Board in matters related to asylum, in accordance with specific needs in areas identified as a priority for the Agency's work.

Or. en

Amendment 100

Proposal for a regulation Article 54 a (new)

Text proposed by the Commission

Amendment

Article 54 a

Protection of Fundamental Rights and Fundamental Rights Strategy

- 1. The Agency shall guarantee the protection of fundamental rights in the performance of its tasks under this Regulation in accordance with relevant Union law, in particular the Charter, relevant international law, including the 1951 Convention, the 1967 Protocol, the legal norms adopted in the context of the CEAS and obligations related to access to and content of international protection.*
- 2. For that purpose, the Agency shall draw up and further develop and implement a Fundamental Rights Strategy including an effective mechanism to monitor the respect for fundamental rights in all the activities of the Agency.*
- 3. The Agency shall, in the performance of its tasks, take into account the special needs of children, unaccompanied minors, persons with disabilities, victims of trafficking in human beings, persons in need of medical assistance, persons in need of international protection, and other persons in a particularly vulnerable situation. The Agency shall in all its*

activities pay particular attention to children's rights and ensure that the best interests of the child are respected.

Or. en

Amendment 101

Proposal for a regulation Article 54 b (new)

Text proposed by the Commission

Amendment

Article 54 b

Code of Conduct

- 1. The Agency shall draw up and further develop a Code of Conduct applicable to all experts involved in support operations coordinated by the Agency. The Code of Conduct shall lay down procedures intended to guarantee the principles of the rule of law and respect for fundamental rights with particular focus on children, unaccompanied minors and other persons in a vulnerable situation, as well as on persons seeking international protection. The Code of Conduct shall be applicable to all persons participating in the activities of the Agency.*
- 2. The Agency shall develop and regularly update the Code of Conduct in cooperation with the Consultative Forum.*

Or. en

Amendment 102

Proposal for a regulation Article 54 c (new)

Text proposed by the Commission

Amendment

Article 54 c

Complaint mechanism

- 1. The Agency shall, in cooperation with the fundamental rights officer, take the necessary measures to set up a complaint mechanism in accordance with this Article to monitor and ensure the respect for fundamental rights in all the activities of the Agency.***
- 2. Any person who is directly affected by the actions of staff involved in operational activities organised by or with the involvement of the Agency, and who considers him or herself to have been the subject of a breach of his or her fundamental rights due to those actions, or any party representing such a person, may submit a complaint in writing to the Agency.***
- 3. Only substantiated complaints involving concrete fundamental rights violations shall be admissible. Complaints which are anonymous, malicious, frivolous, vexatious, hypothetical or inaccurate shall be excluded from the complaint mechanism.***
- 4. The fundamental rights officer shall be responsible for handling complaints received by the Agency in accordance with the right to good administration. For this purpose, the fundamental rights officer shall review the admissibility of a complaint, register admissible complaints, forward all registered complaints to the Executive Director, forward complaints concerning members of the teams to the home Member State, inform the relevant authority or body competent for fundamental rights in a Member State, and register and ensure the follow-up by the Agency or that Member State.***
- 5. In accordance with the right to good administration, if a complaint is admissible, complainants shall be informed that a complaint has been registered, that an assessment has been initiated and that a response may be***

expected as soon as it becomes available. If a complaint is forwarded to national authorities or bodies, the complainant shall be provided with their contact details. If a complaint is not admissible, complainants shall be informed of the reasons and, if possible, provided with further options for addressing their concerns.

Any decision shall be in written form and reasoned.

6. In the case of a registered complaint concerning a staff member of the Agency, the Executive Director shall ensure appropriate follow-up, in consultation with the fundamental rights officer, including disciplinary measures as necessary. The Executive Director shall report back within a determined timeframe to the fundamental rights officer as to the findings and follow-up given by the Agency to a complaint, including disciplinary measures as necessary.

If a complaint is related to data protection issues, the Executive Director shall involve the Data Protection Officer of the Agency. The fundamental rights officer and the Data Protection Officer shall establish, in writing, a memorandum of understanding specifying their division of tasks and cooperation as regards complaints received.

7. If a complaint is registered that concerns an expert of a host Member State or a member of the teams, including seconded members of the teams or seconded national experts, the home Member State shall ensure appropriate follow-up, including disciplinary measures as necessary or other measures in accordance with national law. The relevant Member State shall report back to the fundamental rights officer as to the findings and follow-up to a complaint within a determined time period, and if necessary, at regular intervals thereafter.

The Agency shall follow-up the matter in case no report is received from the relevant Member State.

8. Where an expert deployed by the Agency or a seconded national expert is found to have violated fundamental rights or international protection obligations, the Agency shall request the Member State to remove that expert or seconded national expert immediately from the activity of the Agency or the asylum intervention pool.

9. The fundamental rights officer shall report to the Executive Director and to the Management Board as to the findings and follow-up given to complaints by the Agency and the Member States. The Agency shall include in its annual report information on the complaints mechanism.

Or. en

EXPLANATORY STATEMENT

The Commission's proposal for the creation of a European Union Agency for Asylum aims at strengthening the role of EASO and developing it into an agency which can assume a new role in the implementation of CEAS and a stronger presence in operations. The rapporteur thinks that, in order to achieve this, it is essential to transform the current EASO into a fully-fledged EU Agency with the means and mandate necessary to assist Member States in crisis situations, but also to provide the necessary operational and technical assistance to Member States, to be able to reinforce and complement the asylum and reception systems of Member State, including supporting a sustainable and fair distribution of applications for international protection, monitoring and assessing the implementation of the CEAS and enabling. It is more generally important to provide the Agency with a mandate that corresponds to the overall aim of strengthening the CEAS. Further, given that the Regulation on the European Border and Coast Guard Agency will enter into force soon, the rapporteur believes that an equally strong and operational Asylum Agency is crucial in managing the current crisis.

The rapporteur welcomes and supports the Commission's proposal which aims at significantly increasing the role of EASO in practical cooperation, information exchange on asylum, in ensuring greater convergence of the CEAS, in promoting international and union law and operational standards on asylum, in monitoring and assessing the implementation of the CEAS and in providing increased operational and technical assistance to Member States.

The rapporteur supports the view that new operational capacity of the Agency is very crucial. The Agency should have technical, financial and human resources that are appropriate for its new tasks, notably the current challenges of immigration flows in Europe, and made available in an efficient way. This capacity should be based on the contribution of Member States.

The rapporteur stresses the importance of cooperation between the Agency and other European bodies and agencies, especially the European Border and Coast Guard Agency both strategically, operationally and technically. On top of this, the rapporteur proposes a stronger relationship between the Agency and UNHCR and is of the opinion that such cooperation would be very beneficial. Strengthening the relationship between the Agency and non-governmental organisations, including associations of judges is also proposed.

The rapporteur believes that training is one of the most important tasks of the Agency. The rapporteur proposes to widen the scope of trainings offered by the Agency and make it more flexible and adaptable to current needs. Hence, the Management Board is given the possibility to introduce new topics.

The rapporteur welcomes the Agency's role in monitoring Member States compliance with all aspects of CEAS. The rapporteur believes that all Member States have to be monitored once every 5 years in all aspects of CEAS. This can also be seen as a preventive measure, since deficiencies can be detected and rectified in a timely matter. The result of these assessments would also provide a clear picture on the overall functioning of CEAS.

Besides this general assessment, the rapporteur believes there is a need for the possibility of an assessment/monitoring to be decided on an annual basis. It is proposed that such assessment is to be linked with the information analysis prepared by the Agency in accordance with Article 4. The annual assessment could be carried out in one or more Member States, depending on the abovementioned information analysis carried out by the Agency.

The Commission proposed to allow the Agency to initiate a monitoring exercise on its own initiative or at the request of the Commission. The rapporteur supports this idea, but such monitoring should only be carried out in specific cases, where events in any of the Member States give rise to serious concerns regarding the functioning of any aspects of that Member States' asylum system and may put the functioning of the CEAS in jeopardy if not handled in

a timely manner.

The rapporteur proposes the Agency to draw up a fundamental rights strategy prepared by the fundamental rights officer, who would also be in charge of the complaint mechanism.