



Brussels, 22 November 2019
(OR. en)

14364/19

LIMITE

**JAI 1228
ASIM 144
RELEX 1095**

NOTE

| | |
|----------|--|
| From: | Presidency |
| To: | Permanent Representatives Committee/Council |
| Subject: | Way forward for EU Migration and Asylum policy - outcome of discussions – Presidency report |

The debate on the future of the EU migration and asylum policy was launched in the informal meeting of the Strategic Committee for Immigration, Frontiers and Asylum (SCIFA), as well as the informal Justice and Home Affairs Ministers' meeting, both of which were held in Helsinki in July 2019. Since then, discussions have continued in various Council bodies, most notably in SCIFA, in the High-Level Working Group on Asylum and Migration (HLWG) and in the Working Party on Integration, Migration and Expulsion. The more detailed strands of debate are identified in the discussion papers produced for the various meetings: key documents are listed in an annex to this report. The report covers only selected aspects brought up in the debate, reflecting the Presidency's choice of key issues to be carried over to the legislative cycle 2019-2024.

Improved policy coherence is key to achieving our objectives

The preparation of the Multiannual Financial Framework for 2021-27 and the nomination of the new Commission provide an opportunity to step up policy coherence, so as to develop a **whole-of-government approach** to migration, which includes addressing its root causes.

Embedding migration-related objectives in those of other policy areas is a careful balancing act, but necessary for overcoming existing and future challenges and seizing the opportunities regarding migration.

In partnerships with relevant countries and regions of origin and transit, the EU should **build on its strengths** and focus on being a reliable and credible partner - both of which qualities require policy coherence. In recent years, the EU and Member States have developed and expanded their instruments and frameworks for migration cooperation with external partners. These improved tools should enhance our capacity to build **balanced, sustained and mutually beneficial partnerships**. In this context, comprehensive partnerships based on a relationship of equals with the diverse continent of Africa and with key countries of origin and transit in the Middle East and Asia, in particular, remain crucial.

These partnerships should be aimed at **advancing our political priorities in an efficient, sustainable and coherent manner**, including preventing irregular migration and forced displacement and enhancing cooperation on return and readmission. The whole-of-government approach requires us to consider the individual circumstances of each partner country and region, as well as relevant broader EU relations and interests, when considering the **use of incentives and leverage**. We need to identify concrete ways to support and encourage our partner countries towards better cooperation on readmission. The EU should continue to advance **global responsibility-sharing** and develop partnerships at the bilateral, regional and global levels. Cooperation with the African Union and the United Nations have brought good results and should be further promoted.

Our policymaking can also gain from a broader information base and a higher level of **situational awareness**. The systematic use of **forecast and foresight methods**, as well as the **whole-of-route approach** should be further explored and developed so that our policies can become even more evidence-based and forward-looking, as we benefit from our partners' knowledge and share ours with them. The whole-of-route approach entails looking at the different routes from a broad perspective and studying the patterns and profiles along the whole route from countries of origin through transit countries to the EU, thereby contributing to a comprehensive understanding of the dynamics of the routes, including the respective root causes of irregular migration.

The role of the EU agencies is central to fostering policy coherence in practice, providing their respective mandates are balanced, information exchange is efficient and actions are duly **coordinated**. The broad mandate and proposed increase in resources for the European Border and Coast Guard Agency (Frontex), in particular, present an important task in the coming years with regard to achieving synergies and avoiding overlaps with other EU and national actions. There is also an urgent need for a transformation of the European Asylum Support Office (EASO) into a new European Union Agency for Asylum, which should be tailored to respond to current needs through new tasks, increased resources and flexibility, whilst avoiding infringing on Member States' executive powers.

The EU response to the opportunities and challenges posed by migration must be legitimate, fair and credible - including for external viewers

Finding an appropriate response to the shortcomings revealed by the recent migration crisis is a critical task for the EU and its Member States. There is a strong call for the EU to show **global leadership by providing international protection** to those in need, while ensuring effective control of its external borders, promoting safe and orderly migration and thereby contributing to an increased **sense of security** among all residents. Our success has direct consequences for how the EU is perceived by its own citizens as well as the international community.

It is paramount that **the EU speaks with one voice** even where many actors are involved. The **narrative** around migration has undeniable consequences not only for the way the EU is perceived as a community from outside, but also for the **integration outcomes** of third-country nationals residing in Member States. No compromises should be made with the EU's public image as a defender of the rule of law and respect for human rights.

The **rhetoric we use in our policymaking** is equally relevant; this is reflected in the debate on the **Dublin Regulation**. There is a shared understanding that the current system is not suitable for securing a fair distribution of asylum seekers across Member States. When reforming the system, the framing of the debate is quite different depending on whether we take the current system with its imbalances as a starting point and introduce a new corrective component, or aim instead for a more comprehensive overhaul of the system with more balanced basic distribution criteria, aimed at preventing the constant overburdening of any Member State. This does not invalidate, in any respect, the clear conclusion that a crisis mechanism for supporting Member States under specific pressure remains necessary, building on a holistic and effective approach to handling the situation. Lastly, a balanced debate needs to build on **comprehensive data**: we need to know where the pressures lie, in terms of both first arrivals and secondary movements.

Our credibility towards third-country partners depends also on tangible action: sharing global responsibility through **resettlement and complementary pathways should be scaled up**, with efforts from the largest possible group of Member States. The first Global Refugee Forum in December will provide an opportunity to demonstrate a concrete commitment to sharing responsibility for refugee situations with host countries. Likewise, the ability to build shared ownership of the task of ensuring the **proper functioning of our common asylum system**, including in times of crisis, will provide a positive signal in this regard.

At the same time, potential and opportunities brought about by **the existing high volumes of legal migration to Member States** for various purposes such as work and studies should be better capitalised in our cooperation with partner countries: a stocktaking exercise at EU level could be an appropriate first step.

We need a careful tailoring of the best tools to foster convergence among Member States

In the area of migration and asylum, there is a broad EU legislative framework in place and all future activity should reflect the **lessons learnt on the implementation of the current acquis**. The more Member States have the perception that EU legislation is meeting their concrete needs and taking into account their administrative realities, the more likely it is that implementation will be successful. We need to engage in a continuous discussion on how best to secure the intended EU added value from the commonly agreed rules and procedures.

In the area of **legal migration**, as a follow-up to the Fitness Check¹ published by the Commission we should consider **how to make the most of the broad acquis in place**. More specifically, the ambitious directives adopted in recent years should be translated into a clearly perceptible added attractiveness of the EU, which requires commitment from the Member States to making the EU schemes work and appropriate investment at EU level in providing the necessary information to relevant stakeholders in third countries. Specific attention should be paid to reaping the full benefits of the ambitious provisions on intra-EU mobility. One important aspect, which is needed to maximise the potential that legal migration presents for the EU's development and growth, will be the promotion of successful integration of migrants into the host societies.

¹ https://ec.europa.eu/home-affairs/what-we-do/policies/legal-migration/fitness-check_en

Work will continue on the reform of the **Common European Asylum System**. New impetus will be provided by the Commission's upcoming 'New Pact on Asylum and Migration', which sets out to reinforce the comprehensive approach to migration by looking at external borders, systems for asylum and return, the Schengen area of free movement and working with our partners outside the EU. In the meantime, it has proven helpful to return to the **core underlying principles** of the common asylum system and ask ourselves **what really needs to be harmonised** in order to achieve a well-functioning system capable of securing trust among Member States and serving our needs in times of both high and regular migratory pressure. What seems to be the key is to have **efficient procedures** covering all circumstances, including the use of accelerated procedures, across Member States. Equally important and complementary to the reform is effective **monitoring** of the implementation of the acquis. In addition to harmonisation through legislation, a range of financial and other **incentives** should be considered for fostering convergence among Member States, while opting for flexible approaches wherever necessary.

In the area of **border management**, ambitious regulations have been adopted in previous years and their **timely implementation** is a major task for the near future, requiring cooperation, coordination and properly allocated resources both at national and EU level.

Reintegration support for returnees is a good example of an area where Member State practices vary greatly and coordination is lacking, which may result in less than optimal outcomes for both individual returnees and the receiving communities and, therefore, for the overall effectiveness of our policy. When considering any measure to promote convergence, care must be taken not to lose the benefits of national approaches and create a race to the bottom. Effective coordination of activities and mutual learning can help take things forward.

Updating our working methods contributes to improved policy outcomes

The start of the new institutional cycle provides a good opportunity to revisit the way we work. Improved policy coherence requires **inclusive debates** and effective exchange of information across and between Council bodies. The Finnish Presidency has had positive experiences in combining meetings of Council working parties or inviting delegates from other working parties to participate where the agenda justifies this. The discussion on the nexus between migration and trade showed that cross-sectoral exchanges are useful in our work towards shared objectives.

The **format of the discussion** can make a big difference: formal meetings should be supplemented regularly by innovative approaches such as policy seminars, workshops and brainstorming sessions, whilst the expertise of think tanks, academia and international organisations should also be harnessed. Especially where topics are controversial, some reshuffling of the working methods may be helpful. Technological advances, including videoconferencing opportunities, should also be fully exploited to enable more efficient meeting arrangements.

The **new Justice and Home Affairs Counsellors format** launched in September 2019 allows all Member States to exchange information on the migratory situation. This enables the identification of strategic questions that can be addressed further at EU level and contributes to the objective of more advanced situational awareness and foresight.

Lastly, there is some untapped potential in **exchanging national practices** (both successful and problematic) and lessons learnt; this working method is often under-appreciated in the EU context. As administrative, judicial and societal conditions vary across Member States, increasing mutual understanding has clear benefits. This is particularly relevant in the context of asylum procedures, including the link to return, where added efficiency is crucial to securing a well-functioning system.

List of issued Presidency documents supporting the ‘way forward’ discussions

| Subject | Meeting | Reference number |
|--|--|----------------------------|
| Which way forward for EU migration and asylum policy? | Informal SCIFA meeting on 15-16 July 2019; informal Justice and Home Affairs Ministers’ meeting on 18-19 July 2019 | WK 13360/19 WK 13363/19 |
| Way forward for EU migration and asylum policy, focus on the external dimension | Joint meeting of SCIFA and HLWG on 15 November 2019 | ST 13050/19 |
| Way forward for EU migration and asylum policy, focus on asylum | SCIFA meeting on 14 November 2019 | ST 13166/19 |
| Evidence-based and forward-looking migration policies | HLWG meeting on 11 October 2019 | ST 12608/19 |
| Migration and trade | HLWG meeting on 14 November 2019 | ST 13449/19 |
| Better coordination of reintegration support in third countries | Joint meeting of SCIFA and HLWG on 15 November 2019 | ST 13191/19 |
| Policies and tools to enhance readmission cooperation | Joint meeting of SCIFA and HLWG on 15 November 2019 | ST 13190/19 |
| Challenges in analysing the EU asylum situation - brief overview and possible steps forward | SCIFA meeting on 4 October 2019 | ST 12501/19 |