



Council of the
European Union

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LIMITE

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MIGR 86
ASILE 30
SCHENGEN 39
JUR 269

'I' ITEM NOTE

From:	Presidency
To:	Permanent Representatives Committee
Subject:	Opinion of the Council Legal Service on the proposed new Pact on Migration and Asylum - "Variable geometry" - Schengen and Dublin <i>acquis</i> relevance of components of the proposed Pact - approval of a letter

1. On 29 April 2021, the Chair of the European Parliament Committee on Civil Liberties, Justice and Home Affairs (LIBE) addressed a letter to Ambassador Nuno Brito, the Chair of COREPER, regarding the Opinion of the Council Legal Service on the proposed new Pact on Migration and Asylum¹.
2. The Permanent Representatives Committee is invited to endorse the reply letter set out in the Annex to be sent on behalf of the Council to the European Parliament, in accordance with the Council's Rules of Procedure (Article 19(7)(k)).

¹ 8605/21

DRAFT LETTER

Dear Mr López Aguilar,

thank you for your letter of 29 April, by which you invite me to share with you and your committee the opinion of the Council Legal Service on the "*Variable Geometry of the proposed new Pact on Migration and Asylum - Schengen and Dublin acquis relevance of components of the proposed Pact*". Since our respective institutions are co-legislators, what follows is on the basis of the duty of mutual sincere cooperation, rather than Regulation 1049/2001.

You refer in your letter to our "*common and sincere efforts to make progress*" on the Pact on asylum and migration as proposed by the Commission, a spirit of joint endeavour to which we are also very attached. In this context I must stress that, although work is being pursued very actively, no positions have yet been adopted in the Council's preparatory bodies regarding the legislative proposals contained in the Pact, including on the matters referred to in the opinion of the Legal Service. The Council has not taken a position with regard to the issues raised in the opinion. The Council determines its position on legislative proposals by adopting a general approach or a negotiation mandate.

The Council Legal Service opinion is addressed solely to the Council and its preparatory bodies, being intended to help the work of the latter. It is an internal document, strictly for internal use, not intended for bodies or institutions outside the Council.

For these reasons, whilst remaining fully committed to working actively on the various legislative proposals, I am regrettably not in a position to accede to your request.

However, this does not preclude the usual informal exchanges between our respective legal services, in a spirit of mutual sincere cooperation, as is customary between the services of our respective institutions. Such exchanges could obviously include discussions on the way forward with regard to the very important issues raised by the Pact.

[Salutations and signature]