



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 30 November 2010

17223/10

ASIM 120

NOTE

from :	Presidency
to	Permanent Representatives Committee/Council
Subject:	Common Statement by Belgium, Hungary, Poland, Denmark and Cyprus on Immigration and Asylum

The Presidency would like to draw the attention of delegations to the common statement by Belgium, Hungary, Poland, Denmark and Cyprus on immigration and asylum, which will be presented at the Justice and Home Affairs on 2 December, in the context of the Presidency's report on asylum and immigration.

**Common Statement by Belgium, Hungary, Poland, Denmark and Cyprus
on Immigration and Asylum**

The Belgian Presidency has consistently focused on the integrated approach to migration and asylum, as agreed by the Member States and laid down in the European Pact on Immigration and Asylum in 2008 and in the Stockholm Programme in 2009. This covers the different issues linked to the migration and asylum policies: border management, legal migration and fight against irregular migration, relations with third countries and integration. In the field of asylum five legislative instruments will have to be adopted under the ordinary legislative procedure by 2012 in order to follow the agenda set by our heads of state and government.

Asylum

Taking into account the sensitive nature of the asylum policy and the fact that five legislative instruments are still currently open, we are faced with challenges that must be solved if we want to meet our 2012 objective.

It is vital to ensure a common area of protection that is based on mutual trust between Member States. For this, each Member State has a responsibility to fully implement the current EU acquis. In order to reach a Common European Asylum System by 2012 we also need to further approximate our practice and reach a higher degree of harmonization of our legislation.

At the Informal JHA Council in July 2010 Member States agreed to advance swiftly on four of the legislative proposals in the field of asylum, namely the Eurodac and Dublin Regulations and the Long Term Residents and Qualification Directives, while allowing for more time for the recast proposals for the Asylum Procedures and Reception Conditions Directive, where negotiations had not yet advanced as much. This strategy was also endorsed by the European Parliament.

This strategy has led to some significant progress. The agreement reached between the three institutions on the proposal for the amendment of the Long Term Residents Directive, a text that had been blocked for a long time, is the proof of the hard work and the ability to find satisfactory solutions for difficult issues. On the three other legislative instruments (Eurodac and Dublin Regulations and the Qualification Directive) the Belgian Presidency has been able to clarify to a large extent the Council position, which allows for the discussions with the European Parliament to start in the first half of 2011.

Throughout the Belgian Presidency Member States expressed a clear will to avoid undue increase of legal complexity and stressed that realistic and pragmatic positions should be adopted. Some Member States also clearly expressed their opposition to the suspension mechanism in the Dublin regulation as currently proposed by the Commission while others believe that a compromise will have to be found. Most Member States also stated their will to allow law enforcement agencies to have access to the Eurodac database under very strict rules to strengthen security. The Commission took note of this position and acknowledged that this would also need to be part of the package in a way that would be acceptable for both Council and Parliament .

During the JHA Council meeting in November the Commission indicated that, based on the discussions between Member States and also taking into consideration the input given by the French/ German document presented (doc. 14507/10) during the Ministerial Asylum Conference in September, it would be ready to review its approach, provided there would be sufficient political support in both the Council and the European Parliament. The Commission indicated its readiness to take initiatives in order to meet the Council's concerns :

- An amended proposal of the Asylum Procedures and Reception Conditions Directive would be presented during the first half of the year 2011 taking into account the European Parliament's opinion. By doing so the Commission wishes to offer an answer to the Member States' legitimate concerns regarding costs and efficiency without lowering the level of protection.

- A presentation of a new “emergency” mechanism within the Dublin Regulation that will have to be debated in the Council. This new proposal aims to offer an answer to the European Parliament’s concerns and to make it possible to reach a balanced compromise between the two institutions. The possibility for a new mechanism should accommodate the main concerns of the Member States and their wish to safeguard a strong Dublin system and thereby also the Common European Asylum System. This new proposal should allow the Council to have a greater influence on the decision, the period should be restricted in time and the new mechanism should only be activated when a Member State has implemented the *acquis* and is facing extreme pressure due to unforeseen circumstances.

To respect the 2012 deadline we should not only focus on the legislative initiatives, but we should also strongly commit to enhanced practical cooperation and be open to solidarity mechanisms. In response to this the Belgian Presidency organized a Ministerial Conference on Asylum, and visited some of the Member States that are currently faced with serious challenges to their national migration and asylum policy. High expectations exist concerning the establishment of the EASO, which is expected to contribute to the further development of the practical cooperation between asylum systems and bodies in charge of asylum in Member States to allow greater alignment between their practices as well as to provide the necessary support to and increasing the capacities of the most exposed and vulnerable national systems. Next to this important task EASO should also focus on training support, information on countries of origin and increasing capacities as well as strengthen the external dimension of EU asylum policy.

It is important to bear in mind that the efforts in the field of migration and asylum can be jeopardized by the malfunctioning of just one of the links in the chain. For this reason it is of the utmost importance that we continue to show genuine solidarity to support those Member States under particular pressure. As a crucial element for enhancing the mutual trust between Member States, we all need to stand ready to offer support provided the asylum *acquis* is being respected by all. For the Common European Asylum System to work effectively any solidarity mechanism will have to be met with a clear commitment from the Member States involved to further develop and improve their asylum system, including their procedures in first instance and during appeal, their reception and integration capacities and also their strategies for returning failed applicants.

Border management and the fight against irregular migration

A Common European Asylum System is also needed in order to properly fight abuse and avoid secondary flows. For this we shall need to increase our efforts to give the appropriated follow up to the implementation of the 29 measures identified by the Council and to reinforce the protection of the external borders and fight irregular migration.

During the Belgian Presidency progress was made as regards the negotiation of the proposals for an amended Frontex Regulation and the Immigration Liaison Officers (ILO) file. For the very first time a Frontex Rabbit operation has been in action, whereby Greece could count on a swift and efficient reaction by Member States. Furthermore, the Visa Information System (VIS) was closely monitored.

On 8 November 2010 the Council unanimously voted in favour of the liberalization of the visa obligation for Albania and Bosnia-Herzegovina. The decision was accompanied by a Commission declaration guaranteeing Member States that the rights granted under a decision to liberalize the visa regime go hand in hand with clear obligations on the side of the countries involved. All partners in the region shall do their utmost to prevent any misuse of the visa-free regime. Joint efforts concerning the implementation of the Eastern Partnership goals in the mobility field should also be continued to enable people to people contact.

Legal immigration

With a view to setting up a balanced package the Belgian Presidency proceeded, next to the issues mentioned above, to work in the field of legal migration. The Belgian Presidency managed to advance as well in some of the legal migration files. Member States finalized their first reading of the Intra Corporate Transferees (ICT) and Seasonal Workers Directives and continued work on the Single Permit Directive. A conference was also organized on legal migration on 26 November 2010.

* * * *

The future four Presidencies state:

2012 is tomorrow! In order to meet the 2012 deadline in the field of asylum the future Hungarian, Polish, Danish and Cypriot Presidencies strongly commit themselves to jointly and consistently work toward an agreement on the remaining legislative instruments. The goal is to achieve a Common European Asylum System where solidarity exists between Member States and which is efficient, realistic and pragmatic and to strengthen practical cooperation under EASO and between Member States while fully protecting the rights of individuals, offering genuine safeguards for asylum seekers and protection to those in need.

Furthermore, the future Hungarian, Polish, Danish and Cypriot Presidencies strongly commit themselves to efficiently continue the efforts in order to fulfil the goals set out in the Stockholm Programme regarding legal migration, border management, the fight against irregular migration as well as the implementation of the Global Approach to Migration.
