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From:	Presidency
To:	Strategic Committee on Immigration, Frontiers and Asylum
Subject:	Operationalisation and implementation of the Migration and Asylum Pact - Discussion paper

Implementing the Pact - From text to concrete practices

Migration and asylum are European challenges that require a European response. The political agreement reached between the European Parliament and the Council on the Pact on Migration and Asylum, after more than seven years of negotiations, constitutes a major milestone. It lays the foundations for a fair, efficient, and sustainable management of migration in the long term.

The Pact comprises eleven interconnected legislative instruments as well as policy initiatives aimed at fostering a collective approach to establishing a fairer and more effective system of solidarity and responsibility, enhancing external border control, and improving asylum procedures to better protect those in need and prevent abuse of the system.

The effectiveness of this new legal framework hinges on its successful implementation. This will require the adoption and application of regulatory adjustments at national level, the development or enhancement of equipment and infrastructure, the implementation of new systems, processes and procedures, reinforced coordination at national and EU level, and increased operational support and financial allocation.

Ensuring the transition to the new framework will be a key common priority in the next two years. To this end, the same regard for the need for a balanced approach and engagement and determination as demonstrated during the legislative process will be required. It is in this spirit that the Belgian Presidency, as announced during the Ministerial JHA meeting on 25 January, intends to devote substantial efforts to support the launch of the implementation phase of the Pact.

While the Commission will play a leading role in the implementation process, the Belgian Presidency considers that the effective involvement of the Member States and the Council in the process will also be crucial to preserve the positive momentum and enable the new framework to be successfully appropriated at national level.

With this in mind, and in line with the Commission's obligation and stated intention to work on the development of the Common Implementation Plan in close cooperation with the Member States, this SCIFA discussion aims to develop a shared understanding of the next steps of the process. The exchanges between Member States and with the Commission will be continued in various fora, including the Ministerial Conference of 29-30 April.

Setting the course - Development of the Common Implementation Plan

As announced in its Communication of 12 March 2024¹, the Commission has started preparations for the implementation and operationalisation of the Pact. In line with the new legislation, the Commission will present a Common Implementation Plan (CIP) by June. This will set the path forward with a roadmap, timeline, and milestones for EU and national actions. At the Asylum Working Party meeting on 5 April, the Commission will present a first sketch of a timeline listing the main deliverables as set out in the instruments of the Pact.

In its letter on the operationalisation and implementation of the Pact of 19 March 2024, the Commission shared with Member States a first overview of the building blocks envisaged to constitute the backbone of the CIP to ensure that all Member States put in place the legal and operational capabilities required to successfully start applying the new legislation by the date of entry into application (presumably around June 2026). Underlying these building blocks, is a comprehensive, but targeted approach encompassing all the Pact instruments, bringing together internal and external components, including on the prevention of irregular migration along the different routes.

This Commission will also carry out gap analyses in close cooperation with Member States. In turn, the CIP and these gap analyses will inform the development of the National Implementation Plan of each Member State, due six months after the entry into force of the Pact.

Further clarity will be provided as regards the technical, operational, and financial support that the Commission and the agencies can provide to the Member States in implementing the Pact. As a first step, the functioning of the financial instruments available for the implementation of the Pact as well as the functioning of the financial solidarity mechanism will be reviewed by the Commission at the Asylum Working Party meeting on 5 April.

¹ COM(2024) 126

Collaborating along the way - Structured dialogue with the Commission and between Member States

As provided for in the legislative instruments and stated in its various communications, the Commission will play a central role in the implementation of the Pact. However, insofar as it is up to the Member States to translate the obligations of the texts into concrete achievements, it is essential that the interests of the Member States and the role of the Council are carefully taken into account and reflected in the implementation process.

With regard to the development of the CIP, the Commission has stated on several occasions that close cooperation with Member States will be sought, both through targeted and joint consultations. From a horizontal point of view, the establishment of a common dialogue seems to be a prerequisite to reach a shared understanding of the key building blocks and fundamental concepts that will structure the CIP. Collaboration will also be established between the Commission and each Member State, initially in carrying out gap analyses and, further along in the process, in supporting the development of the national implementation plans.

A continuous dialogue between Member States and the Commission throughout the implementation process, during the development of the CIP and at later stages, will ensure the allocation and optimisation of the technical, operational, and financial support that the Commission and the agencies can provide to Member States. This would notably be the case for the additional resources resulting from the upcoming mid-term review of the Member States' AMIF and BMVI programmes, as well as from the recent revision of the Multiannual Financial Framework 2021-2027.

During the implementation process as such, multi-faceted follow-up would be necessary to ensure that all Member States collectively reach the level of readiness required for the new system to come into force. While it is the responsibility of the Commission to monitor the state of implementation in each Member State, it would also be important for the Council to keep a general overview of the common implementation and to provide political and strategic guidance in this respect. Involving the Council, including at ministerial level, could further this objective, by encouraging the continued commitment and determination of Member States at political level. The maintenance of such a positive dynamic should be based on the continuation of a constructive dialogue between Member States based on the preservation of the balance between all the dimensions of the Pact.

In the meantime, technical and operational discussions should be conducted in the most appropriate fora, under the auspices of the Commission or within the Council, in accordance with the role of each institution. In doing so, and in order to limit the administrative pressure on Member States, a balance should be struck between the need to involve the most relevant stakeholders and the need to maintain the overview necessary for the implementation of the new system.

Questions

Bearing in mind that some of these elements may be taken forward at technical or political level in the coming weeks, including during the Ministerial Conference on 29-30 April and JHA Council on 13-14 June, delegations are invited to reply to the following questions:

- 1. Do you consider that the building blocks approach as put forward by the Commission is appropriate to guide the Commission's gap analyses and the development of the Common Implementation Plan? If so, to which extent should these building blocks be detailed in the CIP?*

2. *Do you agree that these building blocks should be completed by a roadmap with a timeline and milestones for EU and national actions in order to constitute the Common Implementation Plan and serve as a framework for developing the National Implementation Plans?*

 3. *Do you support the involvement of the Council in the follow-up of the implementation process with a view to maintaining a high level of engagement and providing political and strategic guidance on the process?*
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