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From: Presidency

To: Strategic Committee on Immigration, Frontiers and Asylum

Subject: Increasing the effectiveness of returns - the opportunities and challenges of innovative solutions
- Discussion paper

The high number of individuals without a right to stay awaiting return within the EU has highlighted the need for a fresh approach. The European Union's migration policy can only be credible, sustainable, and effective if we are able to return those who do not have the right to stay in the EU. In May 2024, 15 Member States sent a joint letter to the Commission, expressing their commitment to developing new solutions to address irregular migration. The Hungarian Presidency, starting with the informal JHA Ministerial Meeting of 22 July 2024, initiated a series of discussions on potential innovative approaches in the area of migration, focusing particularly on the need for a more robust return policy. On 16 September, Coreper held an extensive debate on how to make the EU's return system more effective. During this exchange, a number of Member States mentioned "return hubs" as one of the potential innovative solutions that should be further explored. At the Justice and Home Affairs Council of 10 October 2024, ministers agreed that the review of the current legal framework for returns should enable possible innovative solutions such as the "return hubs". They emphasized that the feasibility of these solutions should be carefully examined by experts, while ensuring full compliance with EU and international law, and with a strong commitment to upholding fundamental rights. Finally, the European Council in its latest

conclusions of 17 October 2024 highlighted that “...new ways to prevent and counter irregular migration should be considered...”¹.

An agreed and jointly shared understanding of ‘return hubs’ does not yet exist. The understanding of what such a concept entails varies.

For the purpose of the discussion at SCIFA, the main principle of a “return hub” is that once a third country national has been issued a return decision but the third-country national in question cannot be promptly returned to his/her country of origin (e.g., due to lack of documentation or the lack of cooperation by the country of origin or other reasons), the individual is transferred to a “return hub” in a third country where he/she will remain until his/her return is carried out, or from where he/she decides to return voluntarily.

Before drawing any conclusions on this topic and discussing possible further steps, it is essential to map and address the legal and practical challenges related with “return hubs”. When examining their feasibility, we need to assess how the concept of “return hubs” can be made to fit within the EU legal framework. Furthermore, the concept must include sufficient guarantees to ensure compliance with international legal obligations, particularly the principle of non-refoulement, including also assurances that guarantees will be upheld in practice throughout the process. Consequently, special attention should be given to monitoring compliance with these guarantees including through the involvement of international organisations, notably IOM and UNHCR.

Among the various pertinent aspects to be explored, it is of utmost importance to determine whether this concept should be pursued through individual or joint efforts of Member States, or if an EU-wide solution is more appropriate. In this context, the necessary scope and cost of return hubs needs to be explored. Questions related to categories of persons covered and ways to ensure availability of returnees for return procedures are additional areas that necessitate thorough evaluation. It is also important to explore by what means the risk of absconding and secondary movements (which may add an additional burden to the current ones or create new migratory routes) can be minimised.

¹ Doc. 25/24, “European Council meeting (17 October 2024) - conclusions

The border procedures to be implemented from June 2026 serve the aim of introducing faster procedures. But this will depend on returns taking place in practice. The strain on national authorities particularly when it comes to the limited capacities for the border procedure must be taken into account. Considering the important deterrent element of the "return hub" concept, it may also be considered as a complementary element to the border procedures.

Following the ministerial lunch at the JHA Council on 10 October 2024, the Hungarian Presidency seeks to initiate a strategic discussion on the concept of "return hubs". The discussion will focus on exploring the key prerequisites and safeguards linked to the "return hub" concept as outlined above. At the same time the Presidency would like to highlight that the implementation of this concept, as other innovative solutions, requires extensive actions in the external dimension. This topic will be thoroughly addressed in separate high-level or possibly political discussions.

At the forthcoming SCIFA meeting, the Presidency would therefore like to hear from the Member States:

1. How do you understand the concept of 'return hubs' and what should be their main elements? What are the essential legal and practical requirements for establishing "return hubs"?
2. If the concept of "return hubs" is implemented in the future, should it be pursued through individual or joint efforts of Member States, by an EU-wide solution or a mixed model? In your view, is there scope for the EU law to set out the essential legal requirements in the context of the revision of the return *acquis*?
3. How can the appropriate safeguards, standards and EU principles be effectively guaranteed in these "return hubs"? Other than the aspects linked to the relations with the third countries concerned, what challenges or limitations could hinder the implementation of the concept?
4. What role do you envisage for EU agencies and international organisations (namely UNHCR and IOM) in implementing this concept in line with their mandate?