



**COUNCIL OF
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NOTE

from : Presidency

to : Council

Subject : Draft Council Conclusions on Mobility Partnerships and Circular Migration in the Framework of the Global Approach to Migration

The Council adopted Conclusions on 18 June 2007 on extending and enhancing the Global Approach to Migration.

The Presidency, on the basis of discussions on how to take forward the development of the concept on mobility partnerships and circular migration foreseen in those Conclusions, has submitted these draft Council Conclusions, with the aim of further progressing work.

The Permanent Representative Committee reached broad agreement on the draft Conclusions on 28 November 2007 as set out below.

The JHA Council is invited to agree on the draft Conclusions, which will be subsequently submitted to GAERC for adoption.

Draft Council Conclusions on Mobility Partnerships and Circular Migration
in the Framework of the Global Approach to Migration

1. In its conclusions of 14-15 December 2006, the European Council agreed on strengthening and deepening international cooperation and dialogue with third countries of origin and transit in a comprehensive and balanced manner. In particular, it stated that while respecting the competences of Member States in this area, consideration had to be given to how legal migration opportunities can be incorporated into the Union's external policies, in order to develop a balanced partnership with third countries adapted to specific EU Member States' labour market needs. In this context, ways and means to facilitate circular and temporary migration had to be explored.

2. The European Council, in the light of the Commission Communication of 16 May 2007 "On Circular Migration and Mobility Partnerships between the European Union and third countries" underlined on 21-22 June 2007 the importance of closer cooperation with third countries in managing migration flows.

It stated that specific partnerships on migration with third countries could contribute to a coherent migration policy which combines measures aimed at facilitating well-managed legal migration opportunities and their benefits - while respecting Member States' competences and the specific needs of their labour markets - with those fighting illegal migration, protecting refugees and tackling the root causes of migration while at the same time impacting positively on development in countries of origin.

3. In this context, the European Council endorsed the Council conclusions of 18 June 2007 in which the Council stated that the concept of mobility partnerships between the European Union, Member States and third countries could be tested by way of a limited number of pilot partnerships. The Council therefore invited the Commission to consult Member States on the further development of this concept, including, in particular, on the terms of reference, and with a view to exploratory talks with interested third countries on pilot partnerships in close cooperation with the Presidency and interested Member States. The Commission was invited to report back to the Council on the outcome of these consultations in order to enable the Council to decide by the end of 2007 whether to invite the Commission to launch pilot partnerships.
4. The Council also agreed that legal migration opportunities, including well-managed circular migration can potentially benefit all partners involved. All possibilities for a well-managed circular migration should therefore be explored in close cooperation with all relevant stakeholders with a view to the adoption of Council Conclusions not later than the end of 2007.
5. The Council recalls the Conclusions of the Council and the Representatives of the Governments of the Member States meeting within the Council on Coherence between EU Migration and Development Policies of 20-21 November 2007.
6. The Council underlines that mobility partnerships should be broad, tailor-made and balanced and should include elements of mutual interest, for example, legal migration, the fight against illegal migration, migration and development including circular migration. The Council also recalls that migration to the EU should be based on the respect for the basic values of the EU and its Member States.

7. In view of the above, the Council approves the following conclusions:

A. Mobility Partnerships

8. The Council underlines the importance of close cooperation and political dialogue with third countries in managing migration, building, where appropriate, on existing frameworks and possibilities for the purpose of taking forward a comprehensive approach to migration. The Council considers that mobility partnerships could represent a novel approach capable of bringing added value in implementing different aspects of the Global Approach to Migration. The Council recalls that the purpose and parameters of such mobility partnerships were set out in paragraph 10 of the Council Conclusions of 18 June 2007 "On extending and enhancing the Global Approach to Migration". The Council stresses, however, that the contents of individual mobility partnerships may vary considerably from one country to another, reflecting the specific characteristics of each situation and the respective objectives, priorities and security concerns of both the EU, its Member States and individual third countries.
9. The Council notes that the parties to a mobility partnership would, on the EU side, include both the European Community and Member States willing to participate in and contribute to it. Mobility partnerships would therefore represent an overall political framework, which take into account existing obligations and agreements, combining, as a counterpart to the commitments taken by the third country, in particular in relation to the fight against illegal immigration, elements within Community competence and elements falling within the competences of the Member States, as provided by the Treaty. The Council stresses the fact that mobility partnerships will need to strictly respect the division of competences between the EU and the Member States.

10. The Council welcomes the results of the preliminary discussions held between the Commission and Member States on the added value, possible content and structures of mobility partnerships. On the basis of these discussions, the Council invites the Commission, in close liaison with Member States and/or the Presidency, in order to ensure a close involvement of the Council, to open dialogue with Cape Verde and Moldova, with a view to launching pilot mobility partnerships.
11. Exploratory discussions will be taken forward with a number of other interested third countries with a view to the possibility of launching additional pilot mobility partnerships, in accordance with paragraph 11 of the Council Conclusions of 18 June 2007. In this respect, special consideration will be given to those third countries that have indicated their willingness to open such dialogue and are willing to work with the EU and its Member States on effective migration management.
12. The Commission is invited to report back to the Council on progress not later than June 2008. The development of future mobility partnerships should take account of the experience gained from the pilot projects. On the basis of these further exploratory discussions, the Council may request that dialogue be opened with a view to launching pilot mobility partnerships.

B. Circular Migration

13. The Council welcomes the work undertaken by the Commission to explore possibilities for well-managed circular migration in close cooperation with all relevant stakeholders.

14. Circular migration can be useful in promoting the development of countries of origin or mitigating the adverse effect of brain drain. In further developing policies and launching initiatives to this end, circular migration could be understood as the temporary, legal movement of people between one or more Member States and particular third countries, whereby third country nationals taking up legal employment opportunities in the EU or persons legally residing in the EU going to their country of origin. Where this meets the identified labour needs of countries of origin and destination, this can be beneficial to all involved and can contribute to co-development. This may include, for example, voluntary service, periods of study or training in the EU, and exchanges of different kinds. Well managed, incentive-based movements between countries of origin and destination can foster the positive effects of the contribution to development provided by migrants and members of settled diaspora when they visit or return to their country of origin, on a temporary basis. Safeguards which prevent overstaying and ensure return are key elements. Circular migration can be facilitated by a legal framework that promotes mobility and voluntary return.

15. Where circular migration is facilitated in order to meet labour market demands, this should fully respect the Community acquis, Member States competences and the principle of Community preference for EU citizens. Having regard to the conclusions of the Council and the Representatives of the Governments of the Member States meeting within the Council on Coherence between EU Migration and Development Policies of 20-21 November 2007, Member States should, in managing circular migration, have due regard to the possible consequences of their policies on the development objectives of countries of origin and strive to maximise the development impact of such policies, particularly with a view to mitigating brain drain.

16. The Council, on the basis of the first discussions on the concept of circular migration and its possible content, takes note of the following possible elements which could be addressed when facilitating circular migration:

- a. pre-departure information on labour market opportunities, language and skills training and other integration and accompanying measures available to migrants prior to their arrival in the EU;
- b. partnerships between labour market agencies of partner countries and Member States to better match supply and demand;
- c. improved mutual recognition of qualifications;
- d. student exchange programmes, including continuation of scholarships for a number of years following return;
- e. measures to ensure ethical recruitment and also to ensure that 'brain drain' is mitigated in sectors suffering from a lack of human resources;
- f. advice and assistance on managing remittances for enhanced development benefits as well as enhancing the impact of migrants savings/investments in the countries of origin;
- g. support to returning researchers to continue a research project in their home country;
- h. reintegration support to those, legally residing in the EU, wishing to return to their countries of origin which is accessible in those countries;
- i. measures to ensure return and readmission, including commitments by individual migrants to return and assisted voluntary return;
- j. an adequate legal framework to promote circular migration.

The Council underlines that these and further elements must be discussed by the competent Council bodies.

17. The Council recalls that bilateral programmes regarding circular migration could also form part of the broader concept of mobility partnerships between the EU and third countries concerned.

18. The Council invites the Commission to take the necessary steps to facilitate financial support for the setting up of circular migration projects and programmes within the existing financial framework.
19. The Council, underlining the need to establish mechanisms to meet the challenges of an increasingly globalised labour market, invites the Commission and Member States to ensure that Community legislation on legal migration facilitates circular migration, where appropriate.¹
20. The Council invites the Commission to regularly report back to Council, with due regard to Member States and third countries competences, about projects and national legislation that facilitate circular migration, with a view to identifying good practices and further developing policies.

¹ **AT:** scrutiny reservation.