



Council of the European Union
General Secretariat

Brussels, 07 December 2021

WK 14865/2021 INIT

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From:	Presidency
To:	Delegations
Subject:	Towards sustainable solutions in the Pact on Migration and Asylum - Presidency discussion paper

Delegations will find attached a discussion paper prepared by the Presidency, with a view to facilitating the policy debate that will take place at the lunch of the Home Affairs Ministers on 9 December 2021.



JHA Council Meeting

Brussels, 9 and 10 December 2021

Towards sustainable solutions in the Pact on Migration and Asylum

It has been more than a year since the Commission proposed the new Pact on Migration and Asylum. A broad consensus has been reached on the proposed steps to strengthen different aspects relating to the external dimension of migration, and political guidance was already clear under the German and Portuguese Presidencies. However, further discussion is needed on the internal aspects of migration, i.e. the balance between solidarity and responsibility, at technical and strategical level. To reach a common understanding of the proposed new system, it was considered useful to supplement the discussion with relevant simulations, including numerical examples.

The Slovenian Presidency has continued the work of the German and Portuguese Presidencies at technical and strategical level on the Asylum and Migration Management Regulation, the Asylum Procedures Regulation and the EURODAC Regulation, as well as the Screening Regulation. While the text of the EURODAC Regulation is ready for a decision at political level, it is not clear whether much further progress can be achieved on the other proposals at expert level without political guidance. Until now, it has not been possible to obtain sufficient political support to allow the Council to proceed to the next phase in the legislative process. Nevertheless, the Presidency notes that some progress was made at a political level during the Portuguese Presidency in terms of providing an understanding of the principle of solidarity as 'compulsory and flexible'. In addition, following the September SCIFA and October Council meeting, it was concluded that further work was needed on the Screening Regulation proposal due to its links with other proposals in the Pact.

Several simulations were prepared in order to gain a better understanding of the framework of the proposed new Pact on Migration and Asylum regarding responsibility and solidarity. At two SCIFA meetings during the Portuguese Presidency, the Commission presented simulations of the proposed migration management framework, along with numerical simulations of the mandatory border procedure and the mandatory solidarity mechanism. A simulation was also done on the use of the mandatory border procedure, with calculations on the possible number of relocations. Secondary movements were not taken into account, as they are expected to decrease considerably following the application of the mandatory border procedure and new responsibility

rules under the Asylum and Migration Management Regulation. A lack of reliable data also prevented the Commission from including this aspect in the simulations. EASO provided simulations of the workflow for the screening process and the asylum border procedure as well as the reception system, together with calculations of the human resources needed for the implementation of the screening process and the asylum border procedure.

During the Slovenian Presidency, additional numerical simulations and flowcharts were done on the asylum border procedures. Two issues were raised: the scope of persons included in the mandatory asylum border procedure in regard to the 20 % recognition rate, and the envisaged exceptions to this procedure, notably minors under 12 and their family members, as well as third-country nationals who cannot be returned due to lack of cooperation by a third country. As a basis for discussion, the Commission and EASO prepared simulations of the impact of different proposals on the scope of the asylum border procedure and the expected burden on the frontline Member States that would have to implement these procedures. The Commission also prepared simulations of the necessary changes to the required reception conditions for the Member States carrying out the procedures. During the last SCIFA meeting in November, the Presidency, with the support of EASO, also tried to reflect on the issue of secondary movements in connection with the notion of responsibility and solidarity.

The simulations were deemed a useful representation of the solidarity mechanism and procedures at external borders. However, they confirmed that discussions will need to continue on the practical feasibility of the proposals and their predictability, as well as on the overall balance of the proposals. In the absence of any means of measuring secondary movements, several practical ideas for how to take into account the asylum pressure on all Member States were presented. Several suggestions for further adapting the simulations were also made, and it was agreed that they should continue to be further developed in parallel to the ongoing negotiations on the legislative texts.

Following the work that has been done so far, the Presidency invites ministers to evaluate the progress made in gaining a better understanding of the responsibility and solidarity framework within the new Pact on Migration and Asylum, taking into account presented simulations, policy discussions and overall progress in negotiations on legislative acts. The Presidency also invites ministers to share their views on possible further steps that could be taken in order to move closer to reaching an agreement on the Pact on Migration and Asylum or elements thereof as soon as possible.

In order to make the discussion as pragmatic as possible, EASO will present a simulation of the human resources needs for the screening

process and the mandatory border procedure, as well as a simulation of human resources and capacity needs for reception. The aim is to present existing tools that can support further technical and political negotiations on the Pact.