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NOTE

From:	Presidency
To:	Delegations
Subject:	For a roadmap for the convergence of asylum practices in the field of asylum

Delegations will find below a courtesy translation of doc. 7867/22.

Building on the reflections in recent months by the Council on the gradual approach on the European Pact on Migration and Asylum, the Presidency proposed to work on the convergence of asylum practices. The objective remains to promote a Common European Asylum System (CEAS), characterised by greater convergence of practices and decisions, both of the determining authorities and of the judicial authorities of the Member States competent in asylum matters, so that the place where the asylum application is lodged is not decisive in the outcome of the procedure.

This objective, which is inherent in the very concept of a European asylum system, has been reaffirmed several times at the highest level. In its conclusions of 26 and 27 June 2014, the European Council thus called for uniform conditions ensuring that applicants for international protection enjoy the same procedural guarantees and protection throughout the Union, through the uniform application of the *acquis* and the "convergence of practices".

In the same sense, the EU Council Conclusions of 21 April 2016, on "Convergence of asylum decision-making practices"¹, recognised the need to reduce divergent decision-making practices between Member States by enhancing the coordinated production of country of origin information, and invited the European asylum support office (EASO) to create a more structured and streamlined procedure, including a high-level strategic network with the task of carrying out a joint assessment and interpretation of the situation in the main countries of origin.

In this spirit, EASO has played a key role in harmonising the practices of national asylum authorities through the development of a European training programme and extensive documentation on the application of the Common European Asylum System (CEAS). These efforts are to be continued with the creation of the European Union Asylum Agency (EUAA) by EU Regulation 2021/2303 of 15 December 2021 to standardise procedures, while ensuring the highest standards of protection, and to promote convergence both in the examination of applications for international protection and in the type of protection granted, as the Agency aims to become a center of expertise on asylum.

However, differences in asylum practices persist, sometimes to a significant degree. This was recently demonstrated by the EUAA in an analysis note on the convergence of asylum decision-making practices, presented to the Strategic Committee on Immigration, Frontiers and Asylum (SCIFA) on 16 February 2022². This note, which studied the protection rates of the top ten nationalities of asylum seekers in the EU+ (in particular Afghanistan, Iraq and Somalia), recommends that strong measures be put in place to reduce these divergences which undermine the CEAS.

¹ 8210/16

² 6095/22

In this context, as announced at the 16 February SCIFA, the Presidency proposes a roadmap on the convergence of asylum practices, which could be based on the following principles:

1. Promote greater ownership by Member States of the operational standards, indicators, guidelines and good practices, as well as of the Country of Origin Information Reports and Guidance Notes, developed by the EUAA in order to enhance their quality and use, in particular by raising awareness of the Agency's documentation among the asylum courts, given their key role in unifying decision-making practices through their case law.
2. Facilitate the exchange of information between determining authorities by standardising requests for information and responses to requests, via the Dublinet messaging system, in order to enhance the consistency of decisions taken by determining authorities on applications for international protection made by the same person in several Member States.
3. Strengthen the EUAA Management Board as the competent body to analyse the state of convergence of asylum decision-making practices at EU level, including monitoring the approximation of protection doctrines relating to countries of origin requiring priority attention from the EU and Member States.

Actions could then be taken by the different actors, based on the following proposals:

Member States would be invited:

- from 2022, to increase the involvement of their national asylum authorities in the procedures for drafting and updating documents drawn up by the Agency's networks, in particular the Country of Origin Information (COI) and Country Guidance networks;
- to continue to take ownership of the methodologies developed by EUAA, together with the experts from the Member States, with regard to activities related to country of origin information (COI);
- to use a harmonised form for replying to requests for information, drawn up with the assistance of the EUAA, in order to facilitate these exchanges;
- to disseminate and promote the Agency's documentation to their responsible and determining authorities, as well as to the national courts responsible for examining appeals against the decisions of responsible and determining authorities;
- continue to take ownership of the European Asylum Training Programme proposed by the Agency, so that a common set of skills is shared among staff working in the field of asylum and reception.

The Commission would be invited to:

- allocate the necessary resources to the Agency to enable the list of countries of origin subject to common analysis and guidance notes to be extended.

The European Union Agency for Asylum would be invited to:

- launch a pilot study, in close cooperation with Member States, to analyse asylum decision-making practices and the origin of differences in protection rates between Member States, in particular with regard to countries of origin for which guidance notes have been developed by the Agency, and present a first report to the Management Board and SCIFA in 2023;
- Expand, in cooperation with its networks and the Management Board, the list of countries of origin for which joint analysis and guidance notes are prepared, where appropriate, by identifying priority countries of origin;
- to increase its activities for the benefit of national courts competent in asylum matters, in particular by strengthening professional tools and awareness-raising activities for members of these courts, while ensuring regular monitoring of the use of its documentation by national jurisprudence;
- to continue and strengthen its work within the Dublin network, in order to facilitate and improve the quality of information exchanges between Member States on asylum seekers, in particular between determining authorities, in particular to facilitate exchanges on the files of applicants presenting a threat to public order;

- to engage in strategic discussions within its Management Board once a year to monitor these different activities and, more generally, the convergence of decision-making practices, and to identify the next steps to be taken; these discussions could be the subject of a report in SCIFA.

Delegations are invited to answer the following questions:

- Do you support the orientations proposed in this document to make progress in this convergence effort?
 - Do you have other measures to propose?
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