



EPP Group Position Paper on asylum and migration

ASYLUM AND MIGRATION

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Introduction

Mass migration is a global phenomenon. People move between and within continents driven by wars and conflict, fear, climate change, hunger and the hope of finding a better place to live.

Migration has been and will continue to be one of the defining, intergenerational challenges and opportunities for Europe. Underlying trends in economic development, demographic changes, globalisation in transport and communications, instability in neighbouring regions, all mean that people will continue to seek to come into the EU for refuge, for a better life or to follow their close family. It is therefore imperative that the European Union is proactive in finding a common European response to this challenge that balances different forms of meaningful solidarity and responsibility. It should update its legislative framework, including through the effective reform of the Common European Asylum System (CEAS), to meet this challenge with sustainable policies that comply with international conventions while maintaining the freedom of movement within the EU by upholding secure and effective external border controls. The Geneva Convention remains a cornerstone of refugee protection, but better compliance is essential. Furthermore, a thorough evaluation of its adequacy for the 21st century is necessary and can lead to a modernisation to ensure that it continues to offer a sustainable legal framework.

Five years ago, the European Union was confronted with an exceptional challenge when close to two million people arrived at its shores in the space of two years, fleeing from war, political oppression or poverty, or seeking a new life for economic reasons, often risking their lives in the hands of smugglers on their way to Europe. It quickly became clear that Member States could not address the challenge of migration alone and that it was common European solutions which should support effective practical measures implemented at national level. Faced with the largest flows of displaced people since the Second World War, it is vital that we act - collectively, determinedly and urgently.

Since then, a number of measures have been introduced to address the immediate challenge of the migration

crisis aimed at putting in place all the important building blocks needed for a European approach to ensure strong borders, fair and swift procedures and a sustainable system able to anticipate problems.

While the migration pressures at the external borders of the EU have subsided in recent years, the current volatile situation at the border between Greece and Turkey may mark the beginning of a new migration crisis. The EU needs to be better prepared to handle a crisis and keep it under control despite the lack of cooperation by the Turkish government in this regard. The security and demographic situation in the Middle East and Africa should also be taken into account.

The frontline Member States bear a disproportionate burden. Due to their geographical location, they are the main entry to Europe. All EU Member States should act responsibly and stand united in solidarity with them.

EU migration policy must distinguish between people seeking protection and economic migrants. In 2018, thirty-nine percent of asylum seekers in the EU got a positive decision in the first instance. This shows that a large proportion of asylum seekers in Europe are not eligible for protection.

Legal migration policy and instruments, in particular to attract talent from outside the EU, have undergone significant developments in recent years. Well-managed legal migration is one key component to ensure a functioning economic system, responding to the evolving labour market's necessities. This is essential to meet current and future skills needs and ensure a dynamic economy.

However, there is still work to be done to build up a coherent and comprehensive way of pursuing mutually beneficial avenues and working in partnership to both reap the benefits and address the challenges deriving from migration in the long-term.

An influx of irregular economic migrants risks diverting resources needed by genuine asylum seekers when they take advantage of mass migration flows and apply for international protection when arriving in Europe. Despite the decrease of asylum applications for the third consecutive year, there are still over 800,000 pending applications and

minimal use of border procedures. This indicates that administrative and judicial systems are not adequately equipped to deal with the influx of people, which might lead to abuse of the right to asylum. Therefore, the EU and the Member States must prioritise dedicating their resources towards those genuinely in need of protection and cooperate strongly to expedite return procedures.

Europe has a twofold responsibility to help those eligible for protection or in need of humanitarian assistance, and to ensure multiple forms of meaningful solidarity amongst all Member States. However, the EU must also help provide assistance and protection primarily in the crisis countries themselves and in their neighbouring areas.

It should be the European Union and the Member States who — in accordance with international law — determine who is granted protection within Europe. Member States retain the exclusive competence to decide on who can stay on their territory and who should return, reflecting also the absorption capacity of the Member States and the Union as a whole. A right to protection should not be interpreted as an unconditional right to migration as unregulated access into Europe is not acceptable. Regarding legal economic migrants, it is the exclusive right of every Member State to decide if they wish to accept them, grant them access to the labour market, and if yes, decide, how many.

Article 78 TFEU provides for a common policy on asylum in accordance with the Geneva Convention and its Protocol.

The debate on migration is difficult and often polarised, with limited space for nuanced views. The EU and relevant political actors must ensure that policy developments are fact-based and a robust communication strategy is in place well ahead of important policy steps in migration policy. They should prompt a meaningful and proactive reaction to migration-related crises.

The Coronavirus crisis has highlighted challenges in protecting public health in the EU while avoiding disruptions to the free movement of persons during a pandemic. The EU needs to be adequately prepared to contain a possible new wave of a Coronavirus outbreak. This could include appropriate screening at external borders, both at

entry and exit, isolation, the transferring of infected persons and other preventive action based on best practices by health authorities. The EU should protect its external border especially where there are increased migratory flows, particularly on the Central and Eastern Mediterranean routes. Migrants living in densely populated facilities where the disease can spread easily are particularly vulnerable.

Protecting the vulnerable - The fight against smuggling

Migrant smugglers draw huge financial benefits by exploiting people and putting their lives at risk. This multi-billion Euro business model must end. Increased information-sharing, coordinated operational actions and engagement with third countries will support efforts to ensure that smugglers have no space to act.

Since they constitute a big part of vulnerable persons in need of special attention, the particular situation of women should be addressed with regards their protection against gender-based violence. Adapted infrastructure for women and girls and adequate training for staff at reception facilities is needed.

Europol plays a fundamental role in fighting migrant smuggling. Europol's European Migrant Smuggling Centre, supported by the work of Eurojust, is already a key asset but can be further strengthened. Both Agencies are hampered by a severe shortage of staff and financial resources. The Centre's main task is supporting police and border authorities to coordinate highly complex cross-border, anti-smuggling operations. In this regard, strengthening Europol's mandate is imperative.

Close cooperation and engagement with third countries remains key to preventing migrant smuggling. One step in this respect is promoting information and awareness raising campaigns of the risks of smuggling and irregular migration. This is crucial for preventing prospective migrants and asylum seekers, including people in particularly vulnerable situations such as children, from embarking on hazardous journeys towards the EU. EU-funded humanitarian operations should continue to take into consideration children's specific needs and vulnerabilities and ensure their protection while they are displaced. All

EU programmes need to continue in key countries of origin and transit and should be implemented as part of a coherent strategy with third countries.

The EU should cooperate and engage closely with countries of origin and transit - particularly in Africa - to help the fight against smugglers, help capacity building in these respective countries as regards effective asylum legislation, law enforcement and border management but also in fields such as education and social policy. Cooperation with third countries must take place in accordance with international conventions and in full respect for fundamental rights.

The European Commission should annually evaluate EU migration policy, including any push and pull factors. In connection with these evaluations, policy changes should be proposed to effectively break the smugglers' business model.

Protecting the Union's Borders: Key Actions

The European Border and Coast Guard Agency (EBCGA) is a milestone in the history of European border management. The establishment of a fully-fledged European Border and Coast Guard system will turn the principles of shared responsibilities and solidarity between Member States and the Union into reality. The Agency closely monitors the protection of the EU's external borders and should support the application of Union measures relating to the management of the external borders, while Member States retain the primary responsibility for the management of their external borders in their own national interest and in the wider interest of all the Member States. It works to quickly identify and address any security threats in full collaboration with the Member States on the territory on which its agents are operating.

Under the new mandate, the EBCGA's role and activities have been significantly expanded in order to provide more efficient and meaningful support for the Member States. The Agency's permanent staff will be more than doubled and the Agency will be able to purchase its own equipment and deploy it in border operations at short notice. More robust funding for the Agency should be ensured to enable it to rapidly achieve its full standing corps of 10,000 and to acquire the necessary equipment. The position

of several Member States to decrease the staffing and financing of the EBCGA is highly concerning in this regard.

The EBCGA is an essential element in ensuring the effective protection of Europe's external borders. The standing corps of 10,000 border guards and staff should therefore be implemented as quickly as possible and become operational ideally before 2024.

In order for the EBCGA to be operational and effective, Member States need to fulfil their pledges in terms of human resources and technical equipment for the effective protection of the external EU border. Issues on recruitment in the EBCGA should be handled as soon as possible - we need to make it more attractive for highly-skilled professionals to seek a career in the Agency. It has to be ensured that the Agency has the equipment and technology needed to fulfil its tasks in a satisfactory way. Internal processes and the organisation of the Agency will need a fitness check in order to ensure that it is able to perform at an optimal level.

A number of enhanced border control tools are being taken forward following the adoption of rules on the interoperability of information systems, the entry-exit system and the ETIAS system to increase information exchange between Member States. The reform of the Eurodac and the VIS should be concluded swiftly in order to close information gaps and blind spots and further counter identity fraud.

The swift conclusion of all consequential legislation by the European Parliament and the Council will be essential to fully implement concluded legislative decisions to deliver enhanced border control. The EBCGA needs to be constantly monitored and its operations analysed with a view to re-assessing its needs where necessary.

All Justice and Home Affairs Agencies with a role in border management should have adequate funding in order to ensure that their daily operations and their ability to protect the EU's external borders are guaranteed.

The effective protection of the EU's external borders is a prerequisite for the proper functioning of the Schengen area and the lifting of temporary internal border controls. However, Member States retain their right to introduce temporary internal border controls, which should

only be set up exceptionally and proportionately for a limited period. Any such measure should be withdrawn as soon as the threats to internal security cease to exist.

Improving Return and Readmission

Effectively implementing the Common European Asylum System (CEAS) and safeguarding the Schengen area go hand in hand with the effective protection of the EU's external borders as well as with an efficient return policy for those third-country nationals without legal grounds to stay in the EU.

Despite the continuous efforts of Member States, the European Commission and the EBCGA, the return rate is far from satisfactory.

Increasing returns requires additional efforts by Member States and third countries. Member States' return systems need to work in a coordinated manner. Key measures include actively monitoring the situation of third-country nationals during the whole return procedure and their compliance with the obligation to return, to prevent absconding and secondary movements and reinforcing assistance to cooperative third-country nationals willing to depart voluntarily.

The completion of the recast of the Return Directive is imperative. Targeted changes in the rules governing detention and alternative forms of detention are required in order to prevent absconding and make returns more effective. Where necessary, detention must be possible for as short a period as possible, used and maintained only while the removal arrangements are in progress.

The full implementation of the Schengen Information System for return is also key, enhancing border procedures and preventing secondary movements.

The Member States' competent return authorities should make full use of the new mandate of the EBCGA on returns, taking into account its extension both in internal and external dimensions, including in pre-return and post-return activities.

For the external dimension of its return mandate, the Agency should make use

of all available tools and capacities to create leverage for cooperation with third countries in the field of returns. This needs to be part of a coherent new "Africa Strategy".

In the framework of the Cotonou Agreement, each of the African Caribbean Pacific States has committed to the return of and readmission of any of its nationals who are illegally present on the territory of a Member State of the European Union, at that Member State's request and without unnecessary delays. That commitment has not yielded better results in this area. We call therefore, giving our support to a new EU-ACP partnership, for better enforceability of the migration-related aspects of EU-ACP cooperation.

Both the negotiation and implementation of readmission instruments should rely on a strong and consistent message that the EU and its Member States have the expectation of cooperation by the third country concerned. This can mean the application of broader policy leverage. The newly-amended Visa Code Regulation serves this purpose.

Cooperation should be mutually beneficial and based on the 'more for more' principle, whereby additional efforts by countries of origin and transit are to be rewarded with increased cooperation and additional support. Therefore, all relevant EU policies, instruments and tools, including trade agreements, as well as development aid, legal migration and visa policies should be linked with the cooperation of third countries in the field of migration and return/readmission, in terms of preventing irregular migration and returning irregular migrants to their country of origin. Periodic reviews on the level of cooperation should be undertaken to update these instruments as necessary. Insufficient cooperation by countries of origin and transit should lead to a decrease in cooperation and support but without affecting humanitarian aid with the aim of preserving life, preventing and alleviating suffering and helping to maintain human dignity in the face of natural and man-made disasters.

For the internal dimension of its return mandate, the Agency should further enhance a common return platform for information gathering, analysis, planning and organisation of common actions in order to facilitate the cooperation between Member States and third countries particularly for the organisation

and implementation of return and readmission procedures.

It is crucial that return decisions can be mutually recognised and that funding is made available for this purpose. The effectiveness of return can only be improved if we increase coordination and work towards a European approach.

The recently adopted Regulation concerning the creation of the European network of Immigration Liaison Officers (ILOs), should further enhance the EU's ability to coordinate and utilise ILOs deployed to third countries, in order to respond more effectively to the Union's priorities in the area of migration, namely the prevention and combatting of illegal migration, facilitating return and managing legal migration.

ILOs, in combination with the EBCGA Return Liaison Officers and European Migration Liaison Officers in third countries provided in the new EBCGA Regulation, should lead to effective deployment in third countries and will place them in a position to exercise pressure at operational level on the basis of concrete return/readmission requests by the Member States.

A Common European Asylum System that is fit for purpose

The current CEAS needs to be kept at the top of the agenda and comprehensively reformed to be able to function properly at all times, respond to future migration crises and global migration trends. The prevention of irregular border crossings needs to be combined with a solid system for managing asylum seekers on EU territory in order to ensure the sustainability of the Schengen area.

Due to the lack of European rules, most applications, according to the European Asylum Support Office (EASO), are still dealt with by only five Member States.

A crisis-resistant EU asylum and migration policy and a crisis-resistant Schengen system are essential prerequisites for our common European future.

A solution to the Dublin Regulation, establishing the criteria and mechanisms for determining which EU Member State is responsible for examining an asylum

application, is one of the prerequisites for a resilient CEAS.

A functioning CEAS depends on solidarity being at the core of any EU approach to migration.

The EU should ensure that in a future model, the majority of asylum-seekers' applications should be made outside the Union, or at the Union's external borders, or in the transit zone of a Member State prior to a decision on the entry of the applicant. Member States should be able to provide for an examination on admissibility or an examination on the merits, which would make it possible for such applications to be decided upon at the external border or at regional disembarkation platforms in well-defined circumstances. The reformed CEAS should ensure that Member States accept their fair share of responsibility, respecting the principle of solidarity and subsidiarity. Children's best interests must be assessed and taken into account as the primary consideration in all actions or decisions that concern them while the right of every child to be treated as a child first and foremost should be ensured.

When uniform rules for asylum are being designed, due account should be taken of the complexities of preventing abuses such as asylum shopping by applicants for international protection, whose secondary movement is driven not only by reception conditions but also to some degree by economic factors and familiar cultural affinities in destination countries, while also incentivising beneficiaries of international protection to remain on the territory of the Member State where it was originally granted. Such rules should ensure that the functioning of the reformed Dublin system is not disrupted by such movements and that Member States comply fully.

A functioning CEAS depends on solidarity between every Member State, being at the core of any EU approach to migration. A reformed CEAS should enable Member States to form part of an EU framework where incoming asylum seekers are fairly distributed among them thereby alleviating the pressure of states of first entry. Member States that are reluctant to participate in this framework must make significant, tangible contributions through other forms of meaningful solidarity. An EU framework for relocation between Member States should ensure that all applicants in clear need of international protection would be in a position to fully and swiftly enjoy their protection rights in the Member State of

relocation, while preventing applicants who are likely to receive a negative decision on their application from being relocated to another Member State, and therefore from unduly prolonging their stay in the Union.

The EU should, as part of a coherent “Africa Strategy”, resume the discussion about regional disembarkation platforms on both sides of the Mediterranean where asylum seekers can be received safely and their claims assessed in an efficient, dignified and humane way. Such regional disembarkation platforms could be operated by the EASO and the EBCGA and without prejudice to the proper functioning of the reformed Dublin system.

Every safe country, both EU states and third countries, in the Mediterranean has a role to play in search and rescue operations. Disembarkation should take place in accordance with international law even if it takes place outside the EU territory.

Saving lives at sea is a legal obligation under both international and Union law, but first and foremost an act of humanity and solidarity for those at risk. Member States, individually and when acting as Member States of the EU or in relevant international fora, must live up to the standards of relevant international law and Union law when it comes to assisting persons in distress. Vessels conducting search and rescue operations must comply with relevant international and Union law and follow the instructions given by the competent Rescue Coordination Centre and cooperate with the Member State authorities and Frontex in order to safeguard the safety of migrants.

The EU-Turkey deal significantly reduced the migration pressure on Europe until the beginning of this year. By establishing similar agreements with transit countries and countries of origin, illegal migration can be prevented while a large number of migrants can benefit from financial support in the countries of origin or transit. The EU facility for refugees in Turkey has given almost 1.7 million Syrians support for basic daily needs and more than 500,000 refugee children have been supported to attend school. However, the massive and organised pressure by migrant populations on the Greek-Turkish border as well as the Greek islands to extremely worrying levels for some time now has made the situation on the islands’ hotspots unsustainable in terms of reception conditions. The pressure at the land borders can lead to violence. The

EU should step up its efforts in order to hold Turkey to its commitments deriving from the EU-Turkey deal.

Further strengthening and harmonising the CEAS rules should also ensure that treatment is equal across the EU in relative terms and reduce undue pull factors to come to the EU.

The ability for determining authorities to conduct a rigorous and fair examination of applications for international protection depends on a variety of factors that are inherent to their internal organisation, resources and functioning. The frontloading of asylum systems, the policy of investing in the quality of decision-making at first instance through the provision of sufficient resources for the competent authorities, training of their staff as well as key procedural guarantees to enable applicants to submit all elements of their claims at the earliest possible stage is key for swift and efficient asylum procedures.

The role of the EASO is crucial when it comes to providing support to Member States for the processing of applications for international protection as well as for the training of caseworkers responsible for processing asylum claims. Support and information should be extended to unaccompanied and separated children in line with their best interest. It is urgent that the EASO is a fully-fledged Agency with the necessary competences and resources.

As a fully-fledged Agency, the EASO should be empowered to provide expert support to the Member States on the ground in identifying the countries of origin of persons travelling without identification documents.

The accelerated examination procedure and the border procedure are necessary tools to deal efficiently with the examination of applications that are clearly fraudulent, manifestly unfounded or inadmissible, and should therefore be mandatory components of the future European Asylum Policy, which should also prioritise asylum applications taking place directly at the external borders or outside Europe.

Revisiting regional arrangements for determining places of disembarkation to relieve frontline states from having the sole responsibility for the disembarkation and further processing of people rescued at sea need to be further explored.

Resettlement

Resettlement is a safe and legal alternative to irregular and dangerous journeys for people in need of protection, and a demonstration of European solidarity with non-EU countries hosting large numbers of persons fleeing war or persecution. It should remain up to the Member States to determine how many are resettled within the EU. The continued commitment of pledges by Member States to resettlement as a safe and legal pathway into the EU confirms that this remains one of the core instruments in enabling people in need of international protection to arrive in the EU in an orderly, managed, safe and dignified manner. At the same time, the responsibility for protection should not only be increased by the EU as a whole, but equally by the international community, as this is currently shared in an uneven manner at the global level. Further development in this regard should be fostered and based on the UN Refugee Forum, where the principle of international responsibility sharing should be put into concrete action.

Legal Migration

Smart management of migration requires not only a policy in addressing irregular flows while ensuring protection to those in need, but also a proactive policy of sustainable, transparent and accessible legal pathways benefiting Europe as well as the countries of origin.

Europe is an ageing continent with a declining working age population, expected to shrink by 18 million in the next decade. In addition, changes in the skills required by the EU labour markets between 2012 and 2025 show an increasing need for highly-skilled workers (from 68 to 83 million, or +23%). Member States should re-evaluate their social and family policies to address these changes and help the EU as a whole to face these new realities.

The EU has to improve migration rules and explore ways of attracting manual labour as well as highly-skilled legal migrants and entrepreneurs who can fill vacant job posts and boost economic growth. The EU has to reform the EU Blue Card and reflect on long-term, short-term and seasonal sets of visas which can contribute to improving labour situations in Europe as well as in the countries of origin. Member States' competences in this field must be

respected and it is Member States that determine the conditions for granting access to their labour markets.

Legal migration has to become part of the overall discussion among other topics with third countries of origin and transit on how to cooperate in the management of migration flows. The EU should foster the cooperation of SMEs between Member States and third countries and push for a system of investment rather than solely aid.

A reflection should start on possible ways to change the EU framework of managing legal and particularly labour migration, including by taking inspiration from successful point-based models developed by other countries, such as Canada and in respect to Member States' competences.

Addressing the root causes of migration

We believe that our strategy on EU aid and foreign policy must also take migration policy into account. The European Commission should consider this when developing a new "Africa Strategy", as well as a comprehensive strategy with the Middle East. More often, the EU should provide assistance to the host country in order to prevent irregular economic migration. One of the overarching objectives of EU aid policy must also be to address the root causes of migration including demographic challenges. The focus should therefore be on assisting the development of stable institutions in the immediate area of Europe to promote sustainable societal development.

Addressing the migration problem at its core requires a partnership with Africa aimed at a substantial socio-economic transformation of the African continent respecting its principles and objectives. This will not only require increased development funding but also steps towards creating a new framework enabling a substantial increase of private investment from both Africans and Europeans. Particular focus should be placed on the implementation of the UN Sustainable Goals with special focus on education, health, infrastructure, innovation, good governance and women's empowerment. Furthermore, the lessons of the High-Level Forum Africa-Europe 2018 should be considered, as they highlight how to utilise the untapped potential innovation and digitalisation as important enablers of our future development.

It is essential to work with partner countries on resilience and stability, and on creating jobs and opportunities for both migrants and refugees as well as for host communities.

The EU needs to build on the experience so far of the EU Trust Fund for Africa and continue the work done in the African continent. It should replenish the Trust Fund for 2020 with contributions from Member States and the European Commission whilst identifying precise needs.

EU action should aim at contributing to the economic development of local communities and regions and thus reducing migration pressure by improving the skills and employability of potential and/or returning migrants.

The EU enlargement efforts in the Western Balkans and the EU's active neighbourhood policy help to broaden the area of prosperity and strengthened rule of law and are therefore effective preventative tools for better management of migration flows. Enhanced strategic and operational cooperation between the EU and the countries on its Eastern and Southern borders should be an integral part of these efforts.

Integration

While the EU can provide incentives and support for the action of Member States, based on Article 79 (4) TFEU, integration remains an issue of national competence.

Migratory flows in recent years have reinforced the need for effective policies on integration of third country nationals.

Integration is a precondition for an inclusive, cohesive and prosperous society. We understand that integration is a two-way process and respect for the values upon which the Union is built must be an integral part of the integration process.

We call for a new approach to integration by Member States, focused on social and labour market inclusion, providing language and integration courses, with specific focus on female migrants and other vulnerable people and addressing the challenges of urban ghettos. Integration at the earliest stage, through mainstream and targeted measures, is an essential factor contributing to societal cohesion overall in Europe as well as an important factor in minimising risks

with regards to possible criminal activity and exposure to radicalisation.

The rule of law and fundamental rights, such as freedom of speech, equal rights between men and women, and respect and dialogue between religious communities are essential elements of our value system and must be respected by all, including migrants. We cannot allow parallel societies in which the core values of the Union are systematically undermined, and we must step up the fight against all such extremist ideologies.

The participation of all actors involved in society is crucial and while respecting the competences of Member States as regards integration measures, such measures for all legally-residing third country nationals should promote inclusion rather than isolation, working hand in hand with regional authorities that have a key role in the integration processes.