



Stockholm Program

Position Paper of the Benelux Ministers responsible for asylum and migration

Introduction

On February 20, 2009 the Ministers responsible for migration of the Benelux countries approved this Benelux Position Paper in the field of asylum and migration. This Position Paper serves as a reference document based on which the Benelux countries will systematically and strategically articulate their views on the new JHA multi-annual framework, including with regard to the forthcoming Communication of the Commission on this issue.

The Benelux countries strive for an effective, fair and harmonised migration policy. The Benelux countries alone cannot control migration flows. Therefore, the Benelux countries work towards a visionary and robust EU-migration policy, characterised by:

- a balance between European initiatives aimed at, on the one hand, preventing and fighting unauthorised migration, and on the other hand, stimulating desired forms of migration benefiting the economic power of the EU;
- a harmonised EU asylum policy based on high standards and mutual trust, ensuring an equal level of effective protection in all Member States for those in need of it;
- border control which balances security with the need for speedy and customer oriented passenger flows, making efficient use of technology and integrated risk-assessment and analysis;
- sustainable return in respect of human dignity as a necessary element of migration policy which is fully incorporated into the external relations of the EU;
- the understanding that realising an effective, fair and harmonised migration policy implies adjusting national laws and procedures;
- mutually beneficial dialogue and cooperation with third countries; and
- a high level of protection for children in order to prevent their abduction, for example by facilitating their identification through an optimal use of new technologies.

As a horizontal proposal, the Benelux countries request the European Commission to initiate reflection on ways of ensuring practical applicability of EU legislation within the field of asylum and migration. Legislative proposals often undergo significant changes during the negotiation process. A suggestion could be to introduce ex-ante implementation assessments for legislative proposals to determine whether application of the proposal is still feasible in practice. This could be a remedy for some of the current problems in the implementation of policies within this field.

One of the pillars in the field of asylum and migration is the practical cooperation of the executive bodies of the MS, the bottom-up approach. Experiences have been gained in improving this practical cooperation through informal institutional structures, such as cooperation networks and platforms. These cooperation networks and platforms, such as GDISC, should be invited to formulate innovative, experience-based, policy recommendations and to implement practical cooperation projects promoting further harmonisation of the EU migration policy.

This Position Paper outlines in detail the priorities of the Benelux with regard to the policy areas legal migration, asylum, return, border management, visa, and migration/relex.

Legal migration

Purpose (2014):

The directives of the first phase are implemented and their evaluation has been initiated, as has the process of reflection on the conditions for a further opening up of the European labour market for highly qualified employees and academic researchers.

Actions:

- Stimulate coherence between the existing and future directives regarding legal migration (researchers, highly qualified, seasonal workers,...), for example by requesting the Commission to develop where possible a common framework of terms and definitions. The current fragmentation in different directives makes the EU legislative framework for legal migration difficult and sometimes incoherent. For instance, at present in some directives fraud is considered grounds for expulsion; in others grounds for refusal.
- Invite the Commission to present a proposal to elaborate a "code of conduct" to avoid brain-drain in certain vulnerable sectors in countries of origin such as the health sector, the sector of education.
- Modify the "blue card" directive in order to include cross-border commuters reducing the bureaucracy involved, and to promote a genuine mobility mechanism for all highly qualified employees after the evaluation of the directive. The Blue Card directive leaves few genuine opportunities for intra-EU mobility of highly skilled workers. The same applies to the directive on scientific researchers. Intra-EU mobility of cross-border commuters from third countries poses yet further challenges in need of a solution.

Free Movement of Persons

To guarantee the free movement of persons, that is citizens of the union and members of their family, irrespective of their nationality, while ensuring that legislative instruments promoting this principle are not to be misused or abused for fraudulent purposes.

Actions:

- Invite the Commission to clearly define the term "misuse" in the sense of Article 35 of the Directive on free movement, and to put forward proposals establishing a system of "registration and notification" with the aim of preventing misuse and fraud in the context of the directive. This system should provide for registration of EU citizens residing in a Member State other than their own, and who claim rights derived from the principle of free movement, such as family reunification. In addition, this system should provide for registration of actions undertaken by Member States on the basis of Article 35, as well as notification of acts of misuse or fraud committed by EU citizens.
- Invite the Commission to examine the scope and possibilities for application of the concept of public order in directive 2004/38/EU.
- Request the European Commission to investigate the need to improve external border controls of EU citizens, such as through a risk analysis based systematic control of EU citizens in relevant databases.

Asylum

Purpose (2014):

The second phase of harmonisation of asylum policies is completed, during which national asylum systems have been aligned to such an extent that equal and effective protection is guaranteed in all Member States for those in need of such protection. The European Asylum Support Office (EASO) fulfils an adequate supporting role towards the Member States in implementing EU policy.

Actions:

1. Legislation:

- Implementation and further harmonisation of CEAS legislative instruments (for example, of elements related to “exclusion” in the Qualification Directive) with the aim of achieving a common EU asylum procedure and a single protection status valid throughout the Union
- Examine how Eurodac could become in the future not only a supporting tool for the Dublin Regulation, but for the entire CEAS.
- Possible addition of complementary measures, such as:
 - A proposal for harmonisation of all national forms of protection (on the basis of the results of research undertaken by the Commission, expected in 2009)
 - A proposal for a framework of implementation for the Directive on reception conditions to promote further harmonisation of the quality of reception facilities in the EU
 - A proposal for transfer of protection of beneficiaries of international protection.

2. Reinforcing practical cooperation

- Firstly, an effective launch of EASO, coordinating and promoting practical cooperation and development of its scope of activities and competences (for example, exchange of best practices and coordination of the EU resettlement programme) corresponding with Member States’ needs.
- Secondly, implement practical cooperation projects promoting further harmonisation of EU asylum policy (for example, a project related to Post Traumatic Stress Syndrome (PTSS) practices).

3. Solidarity

- External: To promote the implementation of a European resettlement programme whilst maintaining national criteria for resettlement.
- Internal: Coordination of the deployment of European asylum expert teams to Member States experiencing particular migratory pressures.
- Development of comprehensive EU plans for specific countries of origin which, on the basis of experiences gained with Iraq, provide for resettlement, cooperation between Member States on country of origin information, capacity building in countries of the region, and (sustainable) return.

Return

Purpose (2014):

Return is fully incorporated into EU external relations, support for third countries regarding reintegration is better coordinated, and more agreements with third countries on return are reached through creative and broad use of positive and negative incentives, which are not necessarily limited to the field of migration.

Actions:

- Request the Commission to conduct a study on ways in which the EU could increase its leverage and weight in the negotiation of readmission agreements with third countries, in particular through a broader use of positive incentives (bearing in mind that a positive incentive can be withdrawn), where possible from outside the migration field.
- Request the Commission to conduct a study on increasing coherence between national efforts with regard to the reintegration of returnees in countries of origin.
- Promote sustainable return at the EU-level through the creation of several pilot-“Returnee Programmes” based on cooperation between a specific country of origin, relevant EU institutions, and interested Member States.
- Promote the efficient implementation of existing measures in the field of return. An example is the actual use of readmission clauses and JHA-articles in EU partnership- and cooperation agreements with third countries.
- Request the European Commission to propose initiatives to promote the use of standard EU-travel documents, including the European Laissez-Passer..
- Promote the role of the EU special ambassador for readmission, in relation to Member States as well as third countries, if necessary through extension of its mandate.
- Request the European Commission to make progress reports on negotiation mandates on readmission agreements. As a result of these reports, the possibility should be given to review the mandates.

Border Management

Purpose (2014):

Efficient and effective border control is realised, which benefits mobility of travellers, fights illegal immigration, and guarantees a high level of security within the Schengen area through the use of technology and integrated risk assessment and analysis.

Actions:

- Request the Commission to initiate discussion on the long-term development of FRONTEX along an inventory of different scenarios on various levels of cooperation between Member States.
- Request the Commission to draft a proposal to develop an evaluation system of FRONTEX operations, based on tailor-made Schengen evaluations.
- Request the Commission to support pilot projects focussing on joint actions of enforcement authorities (in particular customs- and border authorities) to further strengthen integrated border surveillance.
- Request the Commission to draft a proposal allowing for the setting up of fast reaction teams in cooperation between Member States and specific third countries within the framework of migration management (trade and traffic in human beings).
- Request the Commission to establish harmonised standards for the use of biometric data at borders, including rules for the management of keys necessary for reading and gaining access to biometric data in EU passports (a so-called ‘EU Public Key Infrastructure’).
- Request the Commission to draft a proposal to allow automated border control for EU/EEE/CH citizens using biometric data.

Visa

Purpose (2014):

Harmonisation of European visa practice is further developed, as evidenced by the application of EU-VIS, biometric data, and the Visa code. Also, further harmonisation of rules is achieved within the areas of national visa, national exceptions to visa obligations, and the recognition of travel documents. Finally, cooperation on the acceptance of visa applications is strengthened.

Actions:

- The creation of Common Application Centres, focusing firstly on extension of agreements on representation, joint cooperation with external service providers (front-office), and pilot-projects for joint Schengen front-offices.
- The consolidation of recent developments (Visa Code, VIS, biometrics, evaluation of facilitation agreements).
- Request the Commission to publish proposals to promote harmonisation in relation to: national exceptions to the visa obligation, recognition of travel documents, and national (D) visa.

Migration/Relex

Purpose (2014):

Migration interests are fully incorporated into the external relations of the EU.

Actions:

- Actively promoting accession to and implementation of the 1951 Geneva Convention and the 1967 Protocol in the world.
- Reinforcing mobility partnerships (taking into account the results of the 2009 evaluation).
- Strengthening the role of migrant organisations and diaspora in the development of countries of origin given the importance of remittances, networks and local expertise.