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**COUNCIL OF
THE EUROPEAN UNION**

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SEMDOC

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NOTE

from :	Presidency
to :	Strategic Committee on Immigration, Frontiers and Asylum
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Subject :	Guidelines for a European migration and asylum strategy ¹

General

1. Meeting in Vienna on 11 and 12 December 1998, the European Council called for particular attention to be paid to the development of an overall migration strategy. Section 34 of the Council and Commission action plan, approved in Vienna, on how best to implement the provisions of the Treaty of Amsterdam establishing an area of freedom, security and justice states that an overall migration strategy should be established; section 38 refers to the measures to be identified and implemented under that strategy within five years after the entry into force of the Treaty of Amsterdam.
2. The European Council is convinced of the need for a European migration and asylum strategy, since migration and asylum issues are not only concerned with justice and home affairs policy but also require an approach covering other policy areas as well. On that basis, the European Council sees a need for in-depth discussion of the important issues of migration and asylum and has accordingly laid down guidelines for a European migration and asylum strategy.

¹ Position established by Justice and Home Affairs Working Parties.

3. The European Council is aware of Europe's position as a continent marked by migratory movements and highlights the crucial positive impact of immigration into Europe on the continent's cultural, demographic and economic development over the centuries. It points out that the integration of third-country nationals living in Europe on a long-term basis will be a constant task for the European Union and its Member States.
4. The European Council is aware that enlargement of the European Union lies ahead, in line with the wishes of all Member States . It cannot be ruled out that a sizeable number of nationals of new Member States, future Union citizens, will exercise their rights to free movement and freedom of establishment. Although there are no definite indications of this as yet, the possible consequences should be taken into account in the future development of EU migration policy vis-à-vis third countries, not least in order not to prejudice these new Union citizens' opportunities on the EU labour market.
5. The European Council emphasises that a European migration and asylum strategy must be based on the provisions of the Treaty of Amsterdam, on the related protocols and declarations and on the principle of subsidiarity enshrined in the Treaty. The Treaty of Amsterdam confers on the European Community substantial powers in migration and asylum matters and at the same time sets a timetable for the adoption of certain measures in those areas. It also increases the European Parliament's entitlement to be involved.
6. The European Council identifies with Europe's humanitarian tradition of affording protection to refugees and others in need of international protection. It confirms the commitments of the European Community and its Member States under international law and emphasises that, under Article 6 of the Treaty on European Union and Article 63 of the EC Treaty, all future measures must be consistent with the European Convention on Human Rights and the Geneva Refugee Convention.

7. The European Council has agreed on the following criteria for a European migration and asylum strategy. It must be:
- comprehensive, i.e. cover all aspects of migration and asylum and be cross-policy in nature; justice and home affairs measures must also take social, foreign, external economic and development policy aspects into consideration;
 - specific, so that it can be seen as a uniform European strategy on an important political issue;
 - flexible; Member States must be left sufficient legal and practical powers to deal with specific national situations on their own responsibility. This will make allowance for Member States' differing immigration situations and the varying extents to which they are affected by migratory movements;
 - open, so that it can respond to migration-related developments, e.g. on labour markets or in demography, both inside and outside the EU;
 - in keeping with the principle of solidarity between Member States, by promoting a balance of effort between Member States in receiving and bearing the consequences of receiving refugees and displaced persons;
 - vested with democratic legitimacy, in particular as a result of cooperation with the European Parliament, and based on transparent decision-making procedures.
8. The European Council is aware that a European migration and asylum strategy cannot be successfully implemented unless it proves possible to gain public acceptance on key issues through democratic means. A prerequisite here is to keep the public openly and comprehensively informed about the strategy.

9. The European Council is prompted by the following considerations:

- integration of third-country nationals lawfully resident in the Member States on a long-term basis, including those with refugee status, is a matter of the utmost importance;
- immigration of third-country nationals into the European Union must be governed by certain criteria, which besides the important aspect of family reunification may also include specific qualifications in which Member States are particularly interested;
- all aspects of immigration control, from the issue of visas to checks at external borders, must be integrated into a coherent system;
- admission of third-country nationals relying upon Member States of the European Union to afford them protection must be ensured;
- minimum standards must be established for asylum procedures and the criteria for granting refugee status;
- the protection system needs to be developed in order to make allowance for changed realities in asylum and refugee policy;
- a coherent repatriation policy should help ensure that the unlawful presence of third-country nationals in Member States can be addressed effectively as soon as possible; the main emphasis of this policy should be on voluntary return, which is to be encouraged;
- racism, xenophobia and discrimination should be resolutely combated in the economic, social, political and cultural fields, including the adoption of effective legislation, so as to encourage people to live together in peace and prosperity in Europe.

10. The European Council considers the availability of comprehensive, reliable data and studies on migration and asylum issues essential for establishing a migration and asylum policy. It therefore welcomes the action being taken by the Commission in this area and favours further moves in this direction.

11. The European Council sees a need, in framing and implementing the European migration and asylum strategy, to take due account of specialist know-how and give proper consideration to the views of the relevant international organisations and of the social partners and non-governmental organisations, where their respective interests are affected. The UNHCR in particular will be consulted when framing and implementing the parts of the strategy relating to asylum policy.

Components of a European migration strategy

External aspects of migration

12. A consistent migration and asylum policy by the European Union and its Member States needs to address the root causes of asylum-seeking and migration and the human rights situation in countries of origin. Such a policy will include in particular the elimination or reduction of causes of asylum-seeking, an active human rights policy, conflict prevention, economic and development cooperation and the promotion of democratic structures in countries of origin. A wide variety of foreign, external economic, development, social and home affairs policy measures need to be combined for this purpose (an "integrated approach"). The international community must also make a joint effort to ensure that countries in the home region, or neighbouring regions outside the EU, are in a position to take in refugees and provide protection for them (regionalisation of refugee intake) as the best way of ensuring that the refugees can return home as soon as possible once the emergency situation is over.
13. The tasking of the High-Level Group on Asylum and Migration is a first tangible step towards the "integrated approach". The Group's aim is to develop cross-pillar asylum and migration-policy action plans for selected countries (Albania and neighbouring regions, Morocco, Afghanistan and region, Sri Lanka and Somalia and Iraq), in which home affairs measures will go hand in hand with foreign-policy, development-policy, economic and humanitarian measures. Putting the Group's action plans and recommendations into practice and carrying on with its working methods is of great importance for the further development of the integrated approach.

Migration

14. The European Council is convinced of the need for further harmonisation regarding the admission and legal status of third-country nationals. Particular account needs to be taken here of the high priority of protecting the family unit. It asks the Commission to submit its promised proposal for legislation on these matters as soon as possible and calls on the Council to seek rapid agreement on it.
15. The European Council attaches prime importance to the integration of third-country nationals lawfully resident in Member States of the European Union on a long-term basis. Policies designed to promote integration must be made available from the outset, particularly to families which are to be lawfully resident in a Member State on a permanent basis. The aim of integration policy must be to make such people as well-integrated as possible in the societies of the Member States by according them as far as possible the same treatment as the latter's own nationals, both legally and in practice.

Successful integration requires that the Member State in which the third-country nationals are living conveys its expectations of integration and holds out the prospect of integration. Member States should seek to persuade to their own nationals to support immigrants in their efforts towards integration and take active steps to favour their integration, while respecting their cultural identity. This needs to be matched by a readiness on the part of third-country nationals to take an active part in their integration and to respect the fundamental values generally acknowledged by all Member States.

16. The European Council would point out that the form taken by Member States' nationality legislation also plays an important role in the integration of third-country nationals. For a majority of long-term lawful third-country residents of a Member State, the main focus of their lives lies in that Member State. It is therefore also in the public interest that they should be able to acquire the nationality of the Member State in which they are so living, where certain integration requirements are fulfilled.
17. The European Council would make the point that the systems of immigration control applied by some Member States have to be consistent with the *acquis communautaire* and compatible with one another. They must not infringe the right to asylum and to family reunification. The Council would suggest that Member States exchange experience of their respective systems.

Asylum and refugee policy

18. The Council is requested to adopt criteria and mechanisms for determining which Member State is responsible for considering an application for asylum. The aim will be to ensure that such criteria and mechanisms are implemented as effectively as possible.
19. To improve application of the Dublin Convention, appropriate measures should be taken as soon as possible, with, in particular, the legal and technical conditions for bringing EURODAC into operation being put in place.
20. Greater convergence in the residence conditions for asylum seekers should also be sought. Creating minimum standards for the reception of asylum-seekers could help to reduce large-scale secondary movements.
21. Minimum standards for the recognition of refugees should also be harmonised. The issue of persecution by non-State agents will also need to be considered in this connection. Harmonisation of the criteria for recognition would create the conditions for full mutual recognition by Member States of decisions on asylum applications.
22. Lastly, minimum standards should be adopted for asylum procedures. The purpose of these procedures is to ensure that decisions on refugee status are taken by due course of law within a reasonable time and with a high degree of certainty as to their correctness. Accordingly, Member States remain committed to providing well-equipped authorities and appeal bodies and qualified staff to ensure that these tasks are carried out professionally.
23. To curb asylum abuse, the question of fast-track procedures for dealing with manifestly unfounded asylum applications will also need to be considered. Here too, there must be procedural safeguards to ensure that decisions are arrived at lawfully.

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- 24. The European Council considers it advisable to provide additional, complementary protection arrangements, alongside those offered by the Geneva Convention. This is to take account of the fact that many of those seeking protection from civil war or widespread violence do not come within the terms of the Convention. In so doing, a clear distinction should be maintained between subsidiary protection accorded in individual cases (in particular on humanitarian grounds, which are after all similar to the grounds for affording protection under the Geneva Convention) and a temporary regime designed to deal with a mass influx. Refuge accorded on humanitarian grounds does not have to be designed to be permanent. If such refuge is only on a temporary basis to begin with, however, long-term legal residence must still be possible later on, for example if return to the country of origin remains out of the question.
- 25. The European Council considers that minimum standards should also be aimed at as regards those applying for or awarded subsidiary or temporary protection. Devising a system of readmission for this group of persons within the European Union might also be considered, in order to regulate secondary migratory movements.
- 26. The European Council would point out that host states which take in refugees and displaced persons may be faced with severe social, financial and economic problems, particularly when there is a mass influx. In devising a temporary protection regime for displaced persons, it therefore calls for a balance of effort between the Member States in receiving displaced persons

Return

- 27. The European Council emphasises the importance for readmission too, of following a coherent policy encompassing all areas, but especially foreign, economic and development policy aspects. It advocates removal measures, quickly and consistently applied in accordance with international agreements, as a significant contribution to combating illegal immigration. It considers it necessary to conclude readmission agreements with countries of origin and transit if, without such agreements, readmission cannot be effected or cannot be effected efficiently, and regards this as essential if asylum abuse is to be combated effectively. It sees the incorporation of readmission clauses in association and cooperation agreements concluded by the EU and the Member States with third countries as having a major role to play in a comprehensive policy with regard to readmission.

▪ The European Council urges the EU and the Member States, with UNHCR, IOM and NGO involvement, to give more encouragement to voluntary return and reintegration.

Immigration Control

28. The European Council emphasises the need to continue to develop a common visa policy as a vital instrument for dealing with migration and an accompaniment to the creation of an area of free movement of persons. Its unanimous view is that a common visa policy should cover the following areas:

- a common policy towards States whose nationals must be in possession of a visa and those whose nationals are exempt from that requirement,
- a uniform format for visas with security devices and further measures to guarantee that visas issued are authentic,
- harmonisation of procedures and requirements for the grant of visas.

It invites the Council to consider how local consular cooperation can be intensified, for example by setting up joint visa-issuing offices.

29. The European Council believes that the existing instruments of immigration control, in particular visa policy, enforcement of sanctions for carriers and effective checks at external borders, need to be further developed into a coherent system of immigration control.

30. The European Council stresses that in combating the facilitation of illegal immigration a distinction must be made between the racketeers and their victims. It sees a need for the effective removal, following the imposition of appropriate penalties, of foreign nationals who have committed offences for personal gain. Allowance must, however, be made for the specific situation of people in extreme need who seek the help of criminal organisations to flee their country or conceal their identity.

Fight against racism and xenophobia

31. The European Council would point to the great importance of resolutely combating racism and xenophobia for the purposes of the European migration strategy. Further to the Joint Action adopted by the Council on 15 July 1996 concerning action to combat racism and xenophobia, the European Council calls for the continuation and expansion of efforts at European Union level. In particular, the relevant provisions of the EU Treaty and the EC Treaty should be put to use, through the adoption of specific measures. At the same time the European Council calls on Member States to step up their efforts in this area.
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