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NOTE

From:	Presidency
To:	Visa Working Party/Mixed Committee (EU-Iceland/Norway and Switzerland/Liechtenstein)
Subject:	Towards a more strategic approach on EU visa policy – developing Council Conclusions

I. Introduction

In the first half of 2024, the Belgian Presidency initiated a series of discussions concerning the future of visa policy. The objective of the Hungarian Presidency is to continue the work by further reflecting on the deliverables from those discussions and also introducing some new elements for consideration, with a primary focus on preventing the abuse of the EU's visa regime and identifying and further improving tools and mechanisms to support this aim.

Visa policy is a key instrument at the Union's disposal that could contribute to making the Schengen area more resilient to migration challenges. There is a consensus among Member States regarding the necessity for a more holistic, comprehensive approach to effective migration management, wherein visa policy plays a crucial role. During the discussions held under the Belgian Presidency, there was a broad support for **developing a comprehensive Union strategy on visa policy** by reflecting on both legislative and operational improvements in order to be able to better address future challenges, and in particular prevent the abuse of the EU's visa regime.

This objective was subsequently confirmed in the program of the re-elected President of the Commission for the period 2024-2029, Ursula von der Leyen ¹. Moreover, there is also consensus among Member States that the EU should adopt a more strategic approach towards third countries by fostering more tailor-made use of visa policy tools in external relations, in particular concerning decisions on visa liberalisation or visa facilitation.

Given the key importance of the visa policy tools for the security of the Schengen area and for a more efficient and sustainable migration and asylum system, and the growing demand from the side of the Member States for a strategic approach, the Hungarian Presidency aims at continuing the process – together with the Member States – by defining and elaborating more concrete operational and legislative suggestions and priorities to address the challenges of the EU visa policy.

Under the Hungarian Presidency, the formulation and adoption of **strategic guidelines** setting out priorities for legislative and operational planning **in the field of justice and home affairs** for the period 2024-2029 is a task stemming from Article 68 TFEU. The first debate on the topic was held on 22-23 July, at the informal Justice and Home Affairs Council, within the discussion on the future of the area of freedom, security and justice. The aim of the discussion was to identify future challenges and seek political orientation on the future priorities in the area of home affairs cooperation, including visa policy. Based on the outcome of the Council meeting, a first draft of the strategic guidelines was shared with Member States at the end of July.

However, the strategic guidelines have their limits in terms of length and depth as well. Therefore, while the guidelines on justice and home affairs will provide some broad, strategic principles, also for the future of visa policy, the objective is to develop a set of **Council conclusions** encompassing the deliverables from previous discussions and introducing some new elements, in a more thematic manner. These conclusions could outline the directions for the Commission and for the Council for the coming years and could also serve as a basis for a possible strategy on visa policy to be developed by the Commission. Seizing this opportunity by adopting council conclusions, Member States are given the chance to set out the possible avenues and shape the future of visa policy.

¹ “We will also do more to work with non-EU countries on border security, notably by developing an EU Visa Policy Strategy to better secure borders and manage migration.”
(Political guidelines for the next European Commission 2024-2029)

While for the debate on the draft strategic guidelines a special, dedicated counsellors working group is designated, the draft Council conclusions will be discussed by the visa experts in the Visa Working Party.

This Presidency note therefore serves **as a background and explanatory document** ahead of the first draft of the proposed Council conclusions. Its purpose is twofold: on the one hand to give a summary /essence of the issues already discussed and agreed upon, and on the other hand to suggest certain new elements for consideration and reflection.

II. Drawing up Council conclusions on visa policy

1. The Union's visa regime and its strengthening against the challenges ahead

While visa-free travel is a great achievement from which millions of bona-fide travellers benefit every year contributing to the EU's economy, it is a major policy tool in the hands of the EU towards third countries. There is a broad agreement among Member States and the Commission that the granting of visa-free travel to the EU is on the one hand a privilege for the third country and on the other hand a powerful instrument at the Union's disposal that needs to be used in a more strategic manner. While it has the potential to enhance relations with third countries and promote reforms within them, it is imperative that its application consistently aligns foreign policy interests with migration and security considerations.

It has already been discussed that a considerable number of unfounded asylum applications are lodged by visa-free third-country nationals (21 % in 2023 out of the 1,1 million). In other cases, third-country nationals subject to visa requirement to travel to the EU arrive at neighbouring countries without a visa, since they are visa-free to them and then continue their journey by illegal means to the EU Member States.

In order to prevent or mitigate the consequences of the abuse of the visa or the visa-free regime by third-country nationals, the EU has already developed certain tools.

a) Revised visa suspension mechanism

Further alignment of the visa policies by the neighbouring countries to EU's visa policy would be important, in order to prevent irregular migration flows from third countries who abuse the visa-free regimes towards the EU. Once adopted, the revised mechanism will constitute a major step forward in this regard as well.

The Hungarian Presidency considers the adoption of the proposal on the revision of the visa suspension mechanism a priority, in line with the positions expressed by both the Commission and the Member States during the discussions. The Presidency hopes that the European Parliament will share the same sense of urgency, so that the interinstitutional negotiations can start at the earliest opportunity.

The revised mechanism will provide the Union with more effective safeguards and a stronger leverage to put pressure on the visa-free third countries in case of abuse of the visa waiver regime, in order to prevent irregular migration and other risks to the security of the Schengen area. The proposal aims, inter alia, to prevent a third country from using visa-free entry into the Union as an investment incentive or to provide a tool for cases when a visa-free EU neighbouring country does not align its visa policy to that of the EU's and thereby facilitates irregular flows.

The existing mechanism already allows for reaction in cases when the third country obtained the visa waiver following a visa liberalisation dialogue and no longer fulfils the benchmarks, and also provides for the possibility for activation in cases when the abuse of the visa regime by the nationals of a certain third country results in significant increases in irregular migration or security risks for the Schengen area. However, according to the current rules, triggering the mechanism has proven to be challenging. Therefore, in the revised mechanism, the thresholds will also be adjusted, and the procedures will be streamlined.

It is of utmost importance that the Commission and the Member States make consistent use of the broadened tools available in order to address various problems with visa-free third countries. Although the possible activation of the mechanism will be facilitated, emphasis shall be put on prevention and the mechanism shall be triggered as a last resort. In this regard, it is important to highlight the common approach proposed by the previous Presidency according to which regular follow-up discussions should be organised on the state of play of the EU's visa-free regime, in addition to the annual debate on the Commission's report on the visa suspension mechanism. Furthermore, establishing a list of priority third countries requiring closer monitoring could be considered, just as a greater involvement of Member States in contributing with specific recommendations for certain third countries. Member States in the Council could be more involved also by requesting ad hoc meetings and exchanging their views on any notification.

EU visa policy is an important tool to promote the EU's external policy interests, but not at the expense of the security of the Schengen area. The revised visa suspension mechanism will contribute to combating visa-free abuse by providing more effective safeguards. The example of Vanuatu shows that it is possible to be removed from the visa-free list if the relevant conditions are no longer met.

b) EES and ETIAS

The Entry/Exit System (EES) and the European Travel Information and Authorisation System (ETIAS) will, respectively, allow to better identify overstayers and pre-assess travellers representing a threat to the Member States well before their arrival, this way contributing to reduce the illegal immigration, security and high epidemic risks for the EU.

The EES will register the entries, exits and refusals of entry of both visa-free visitors and Schengen visa holders from third countries visiting the Schengen area for a short stay. This new common border control system will enhance the efficiency of external border controls in the Schengen area and will strengthen security, by collecting biometric data and allowing the authorities to share real time information across the EU. The EES will eliminate the use of the entry/exit stamps, will automatically calculate the duration of authorised stays, and flag those individuals who have not exited the Schengen area after the expiry of their authorised stay.

The ETIAS is an upcoming electronic travel authorisation system for visa-free travellers entering the Schengen area or Cyprus for a short stay. It aims to enhance security with the potential to address abuse of the visa waiver system. ETIAS will be a mandatory prerequisite for visa-free travel and as such will require travellers from visa-exempt countries to apply online before their trip. Applicants must provide personal and travel information, which will be screened against various security databases, including Europol and Interpol in order to assess whether the person constitutes a security, illegal immigration or high epidemic risk to the EU before they begin their journey. This pre-screening helps to identify potential threats, such as individuals with criminal backgrounds or links to terrorism, and those who overstayed in the past. If a risk is identified, the application will be subject to further manual review by national authorities before a decision is made. Travellers will thus be informed before departure whether they are allowed to enter the territory of the 30 European countries using the system, which will facilitate legal travel, speed up border checks and reduce uncertainty for travellers as well as waiting times at the border. ETIAS will thus make the management of external borders more efficient and improve internal security.

ETIAS also facilitates data sharing among Member States, enhancing cooperation and information exchange. ETIAS represents a significant step in the EU's efforts to strengthen border security and prevent abuse of the visa waiver system. By implementing a comprehensive pre-screening process, enhancing data sharing, and imposing specific restrictions, ETIAS aims to ensure that only eligible travellers can enter the territory of the Member States, thus safeguarding public safety and maintaining the integrity of the EU's visa-free regime.

Therefore, the implementation of ETIAS can already act as a deterrent to those considering abusing the visa waiver system. Knowing that they will undergo rigorous pre-screening, potential offenders may be discouraged from attempting to enter the territory of the 30 European countries using the system. However, should this not be the case, the EU could consider the **application of ETIAS restrictive measures**, thereby penalising those abusing the visa-free regime. Member States and the Commission could consider applying ETIAS restrictions collectively in cases where the nationals of a third country abuse massively the EU visa system, leading to a substantial increase of e.g. asylum seekers, illegal migrants, or apprehended persons at the border, thereby constituting an increased risk or threat to the Schengen area. Additionally, ETIAS limitations could be applied on other grounds as well, defined in the Visa Regulation, such as decreased cooperation on readmission or non-alignment cases.

For instance, the cost of the travel authorisation (currently set at 7 euros) could be increased, the validity period – typically three years – could be shortened, or the number of permitted entries – currently multiple entries of up to 90 days within any 180-day period – could be reduced for nationals of a specific third country. Such an adjustments to ETIAS could enable the introduction of a graduated, step-by-step response within or similar to the framework of the visa suspension mechanism. Various options could be explored, which would of course require legislative work. Finally, ETIAS could allow for a personalised approach as well by assessing the behaviour of individual travellers. The possibility could be explored when in case a person misuses the rules (e.g. overstays or lodges an unfounded asylum application), their ETIAS authorisation could be individually restricted.

The implementation of ETIAS is approaching rapidly. It shall become operational 6 months following the start of operations of the EES. The entry into operation of the latter is scheduled for November 2024. Member States and the Commission are encouraged to explore the potential of ETIAS and to consider establishing the necessary legal basis for the proposed reforms.

c) The Visa Information System – the provision of statistical data by eu-LISA

The absence of statistics regarding the number of third-country nationals entering the territory of the Schengen area with a visa and subsequently applying for asylum stems from the practice of certain Member States wherein asylum authorities do not systematically consult the VIS when processing asylum applications. Member States have the legal obligation to provide eu-LISA with information necessary to feed a two-yearly technical report on VIS². Although data on VIS use for asylum purposes is requested in this context³, in general less than half of the Member States provide data⁴.

² eu-LISA VIS Technical Report (2021-2023) is published every 2 years and submitted to the European Parliament, to the Council and to the Commission in line with Article 50(3) of Regulation (EC) No 767/20087 and Article 17(3) of Council Decision 2008/633/JHA. As per Article 50(6) of the VIS Regulation and Article 17(5) of the VIS Decision, Member States are legally obliged to provide data to eu-LISA for the purposes of drafting the report.

³ Based on a template provided by eu-LISA.

⁴ As per the VIS Technical Reports 2022 and 2024. See latest VIS Technical Report (2021-2023): https://www.eulisa.europa.eu/Publications/Reports/VIS_2021-2023_Report.pdf

On the other hand, it is widely acknowledged among Member States that measures should be taken against third country nationals who legally enter the Schengen area with fraudulently obtained visas or permits and then apply for asylum. Transparent and consistent procedures are essential to ensure continued checks on legal stays after entry with a visa. Using the available databases, efforts should be made to obtain an accurate picture of the number of third-country nationals entering legally and applying for asylum.

In the long-term, with the revised VIS, new Eurodac⁵ and interoperability framework, it will be possible to correlate data on visas with asylum applications. Thus, the Central Repository for Reporting and Statistics (CRRS) will be able to provide the associated statistics. But as long as the interoperability framework, including the revised VIS and the revised Eurodac is not yet operational, the current situation needs to be improved in the short term.

Building upon the discussions held under the Swedish Presidency, the Belgian Presidency reinitiated discussions on the relationship between visa and asylum, a topic that the Hungarian Presidency is continuing to address, notably in the Asylum Working Party, with the involvement of eu-LISA.

Previous discussions outlined the importance of cooperation between Member States as well as within Member States between their visa and asylum authorities, including the need to compile comprehensive statistics on visa abuse to better understand the phenomenon and the evolving trends. The latter is vital also as feedback for the consulates to better take their decisions in the future. To this end, Member States' authorities should be strongly reminded of the need to consult systematically the VIS in asylum procedures. In addition, it was also emphasised that the issue should also be addressed within the framework of local Schengen cooperation, in order to identify trends and improve risk analysis. Some Member States have already presented their practices, which have shown that through good collaboration between the visa and asylum authorities and by systematic checks of the VIS by asylum authorities they can produce sufficient statistics which allow them to have a more complete picture with a view to detecting possible abuses and understanding trends.

⁵ Eurodac currently records the fingerprints of asylum seekers and third country nationals crossing external borders of the Union illegally. With the revision, it will become a common database on migration and asylum storing biometric and alphanumeric data, and it will become part of the interoperability framework of EU information systems. The new Eurodac database, which currently mainly serves to operate the Dublin system, will thus be fully interoperable with border management databases and serve various asylum and migration related purposes.

Currently, on the side of eu-LISA the usage of the VIS for asylum purposes (identification for examination and responsibility) is extracted per Member State from the VIS. Currently, this data is compiled, at least, on a quarterly basis and shared with the members of the VIS Advisory Group. In addition, every two years, eu-LISA requests data from the Member States on the use of the VIS, including on the number of successful identifications for asylum purposes. In general, less than half of the Member States provide data to the Agency for these purposes. Therefore, this presents only a partial picture of the situation.

In medium-term, the Entry Exit System (EES) will further support in countering abuses of the visa process. Data on EES records that were deleted or updated due to the granting or application for international protection for a third country national could provide a partial picture on the issue.⁶

In the short term, a possible solution could be for the **Member States to record successful asylum identifications in the VIS** at national level. Eu-LISA has already the mandate to collect and report this data in its technical reporting. As the reporting is every two years, this specific data point **could be reported on a more regular basis**, if it is deemed permissible within the current legal framework. Analysis on the links between specific third countries and visas issued or overstays in a given Member State would be a step further for which the Agency currently does not have a legal mandate to conduct.

There is a clear need for Member States, on the one hand, and the Commission, on the other hand, to use all sources and tools at their disposal. Beyond the exercise of exchanging practices of asylum authorities of the Member States, the potential of **better use of the data-providing capacity of eu-LISA** could be further explored, including the analysis of the shared data. The Commission could consider exploring how to make more effective use of the data collected and stored in order to reinforce security.

It is necessary to continue to develop and integrate the VIS, the Eurodac and the other information systems at an appropriate pace in order to ensure that information on visa applicants is shared efficiently among Member States, helping to identify potential security threats. Closer cooperation and data sharing between visa and asylum authorities, as well as the integration and analysis of the relevant data at EU level are necessary elements for an effective migration management.

⁶ In accordance with the draft EES Handbook

d) Article 25a visa measures – readmission cooperation

A well-functioning return and readmission system also contributes to reducing abuse, including the effective application of the Article 25a mechanism of the Visa Code. Article 25a of the Visa Code provides for the possibility of using visa policy instruments in order to achieve results in another policy area, namely the readmission cooperation. The Article 25a mechanism triggered favourable dynamics in the cooperation with third countries assessed and has led to enhanced engagement with third countries for which visa measures were proposed by COM or adopted by the Council.

However, the full potential of this mechanism should be harnessed to increase readmission cooperation with third countries. Restrictive visa measures have proven to be a powerful tool for exerting pressure in case of insufficient cooperation in readmission by third countries that result in low numbers of returns to these countries and could result in the increase of migratory risks threatening the security of the Schengen area. Nevertheless, the Commission's report on the Evaluation of the Visa Code of April 2024 pointed out that a smoother processing is needed for more effective strategic implementation. Member States also shared the view that the implementation of the whole process should be further refined in order to develop a more powerful and credible mechanism, which could encourage more effectively the third countries to cooperate.⁷

Regarding the Article 25a mechanism, the experience of the past six months under the new approach introduced by the Belgian Presidency indicates that aligning the evaluation and decision-making process in this manner has already led to significant improvements. It remains however essential to ensure proper and continuous coordination among the various formations, beginning at national level when positions are formulated.

⁷ Since the adoption of the first report, some steps have already been taken into this direction, i.e. the fifth Commission Article 25a report has been presented together with a proposal for a Council implementing decision concerning visa measures for Somalia, therefore reducing the duration of the whole exercise.

In the spirit of making a full use of the mechanism, **the procedure could still be better streamlined**. Active support from the Member States is necessary, in the spirit of solidarity, to apply the mechanism more effectively. Once a proposal for visa measures is adopted by the Commission, the procedure should be better sequenced. Country-specific deadlines (e.g. within the framework of a monitoring mechanism) could increase diplomatic pressure on the third countries concerned, thereby encouraging them to cooperate more actively. The establishment of such deadlines might further strengthen the mechanism and would also require ensuring that appropriate follow up is taken, once a deadline has expired and no progress has materialised.

Ways to ensure EU's credibility should be found also in cases where the examination of the Commission proposals for visa measures becomes rather prolonged, both for cases where no improvement materialises and those where the concerned third country's cooperation increases, but not to the expected level, thus leading to no clear consensus among the Member States on the adoption of the measures. Although the withdrawal of proposals remains within the Commission's prerogative, it would be inadvisable to automatically withdraw a proposal that has not been adopted after a specific number of years. Instead, the absence of significant progress in cooperation over a given period should be regarded as a key factor when evaluating the possibility of adopting a decision.

One of the options which could be considered to safeguard the EU's credibility could be establishing a clear timeframe for the decision-making process in the Council, once the Commission proposal for measures has been tabled. This could be done by introducing specific deadlines at this stage of the process, potentially through amending the Visa Code. This should convey a clear message towards third countries failing to cooperate in readmission that countermeasures will be implemented if cooperation does not improve within a reasonable period of time. Naturally, the foreseen deadlines should ensure preserving the flexibility, in order to reflect the individual situation of the country and the political opportunity to act.

e) Other possible sanctions for consideration

Visa tools can be instrumental in managing migratory pressure by offering controlled access to a country while addressing various concerns such as security, economic stability, and social integration. In addition to the tools explained above there could be some further visa measures to be examined that can help reducing migratory pressure with a view to providing a more powerful visa policy.

Personalised visa sanctions as a long-term perspective

In the longer term, it may also be worthwhile to consider introducing more targeted sanctions against third country nationals misusing their visas. While certain measures are already applied by consulates – such as the personal visa interviews, issuance of single entry visa instead of multiple-entry visas – a more consistent and harmonised use of the existing sanctioning instruments could be ensured. This could be formalised through an amendment to the Visa Code, potentially including sanctions like issuing an entry ban or other visa restrictions similar to the ones laid down in Article 25a.

Furthermore, also in line with the trends towards digitalisation, the implementation of the EES and the realisation of interoperability across the Schengen Area will provide Member States' authorities with enhanced access to travellers' data. This expanded access to information would enable the application of additional **restrictive measures for abusers of the visa regime on an individual basis** – such as increased visa fee, extended processing time, temporary suspension of the issuance of multiple-entry visas for a certain period of time or even entry ban.

However, it needs to be added that when a more personalised approach is considered, it could work in the positive direction as well, having beneficial effects, thus providing more facilitations for bona-fide, reliable travellers based on their previous travels, rewarding the legitimate use of their previous visas.

In conclusion, while these possible future options require further discussion, they could offer a pathway to a more nuanced and equitable visa system, balancing the need for security with the facilitation of legitimate travel. Such considerations could be explored as part of long-term policy development.

2. The EU's leverage through visa policy – relations with third countries

The evolving role of visa policy necessitates its optimal strategic use in relations with third countries. Visa facilitations and visa exemptions hold significant value for third countries, which can foster partnerships and enhance foreign relations between the EU and its partners. For the European Union, these mechanisms serve as strategic leverage and while their external dimension is undeniable, their application should not compromise security or risk of illegal migration. In addition, visa policy should be leveraged to build partnerships on migration and security that align with and advance the interests of the EU. This approach underscores the importance of balancing facilitations with the mitigation of associated risks to ensure comprehensive and mutually beneficial outcomes.

a) Visa liberalisation dialogues

While there is a general agreement that visa policy is a key tool in the Union's foreign policy in order to foster cooperation and people-to-people contacts, there is an increasing demand from Member States that the necessary safeguards shall be ensured in terms of migratory and security risks. Without denying that visa liberalisation dialogues are the best ways for the EU to engage with a third country in a process towards visa-free travel, there is a strong need to strike the right **balance between foreign political interests and internal security aspects** when a decision is made on visa liberalisation. This requires that the EEAS, the Council and the Commission work together in close cooperation and that the justice and home affairs formations of the Council have the opportunity to be involved in the discussions throughout the process in order to ensure adequate security guarantees.

During the discussions on the future of the visa policy there has been a broad demand from the side of the Member States that the justice and home affairs community is fully involved in visa liberalisation dialogues, and have the opportunity to discuss the issue from an internal perspective, including security and migration aspects. This request was particularly emphasised in relation to the discussions on the launch of the visa liberalisation dialogue with Armenia, highlighting that asylum, migration and **security aspects should be given particular attention**. In this regard, the need to involve the relevant working groups, and in particular the Visa Working Group in the decision making process, including in the development of the benchmarks, was also reiterated, in order to avoid political decisions which could have serious negative consequences to the Schengen area in terms of security and migratory risks.

Member States have also concurred that visa liberalisations cannot be taken for granted. It is imperative that the third countries concerned continuously meet the established benchmarks even after the decision on a visa waiver has been taken. In order to maintain the security of the Schengen area, third countries must remain continuously accountable for fulfilling the conditions of the roadmap to visa liberalisation. This expectation however requires an **effective monitoring mechanism** on the part of the EU. It is therefore important and welcome that the monitoring procedure by the Commission in the framework of the visa suspension mechanism report has been strengthened. The EU needs to demonstrate credibility to third countries by making consistent decisions and expecting the partners to comply continuously with the previously set conditions. In this regard the visa suspension mechanism is a key tool for ensuring appropriate response in case of abuse of the visa-free regime. The example of Vanuatu has already shown that it is possible to be removed from the positive visa list.

b) Visa Facilitation agreements

Visa facilitation agreements aim at simplifying and expediting the visa application process for citizens of the respective countries, thereby fostering enhanced cultural, economic, and diplomatic relations and also improving readmission. The benefits of visa facilitation agreements include increased mobility for citizens, which promotes tourism, business, and educational exchanges. They also contribute to stronger political and economic ties between the EU and partner countries, encouraging cooperation in various fields.

However, these agreements may pose challenges related to potential abuse of the visa system, thus balancing the facilitation of travel while maintaining the security and immigration control remains important. Additionally, while there was consensus among Member States that visa facilitation agreements remain a crucial instrument in the EU's relations with third countries, discussions also highlighted their comprehensive and strategic use, for instance to achieve objectives in other policy areas.

Member States agreed that future visa facilitations should follow a more strategic approach, with the conclusion of **country-specific, tailor-made agreements**, which also serve the interests of the EU. Visa facilitation agreements with the EU remain attractive incentives for third countries, thus in order to profit the most of such relations, the EU should first identify the benefits for itself and then define the conditions specific to the third country concerned (e.g. implementation of sanctions), including guarantees for suspension or the potential for granting further facilitations. More tailor-made agreements are also useful in view of the fact that the revised Visa Code already provided for a default cascade mechanism and certain possibilities for further exemptions from the visa fee. When ensuring a comprehensive and strategic framework, it is also necessary to balance foreign policy interests with considerations of internal security and migration. The importance of readmission agreements concluded in parallel with visa facilitations is undeniable.

Furthermore, the effective implementation of a visa facilitation agreement has the potential to pave the way for visa-free cooperation in the longer term, as evidenced by the recent launch of the visa liberalisation dialogue with Armenia. Therefore, it may be beneficial to explore how the conclusion of visa facilitation agreements, incorporating additional safeguards and, where appropriate, more benefits, **could contribute more effectively to the process of visa liberalisation by adopting a more flexible, process-oriented approach**. The regular Joint Committee meetings provide the possibility for continuous monitoring, which, with a more effective use, could give the agreement a process-driven character, including the possibility of granting further facilitations.

On the above principles, visa facilitation negotiations which have been stuck for a while (with Tunisia, Morocco, Jordan or China) could also be revisited in order to assess if there is a possibility to continue the negotiations on the basis of a revised, more tailor-made mandate that is also beneficial to the EU, or, possibly, withdraw a now obsolete COM mandate.

c) Migration partnership dialogues for strengthening visa and migration cooperation

Exploring the possibilities through which the Union can engage with visa-required third countries to enhance compliance with Schengen visa and migration rules also presents a valuable opportunity for policy development. Beyond the existing visa suspension mechanism that addresses cases of non-alignment, the EU could pursue more comprehensive frameworks to encourage alignment with its security and migration policy. One potential approach lies in leveraging Migration Partnership Dialogues, like the ones established with countries such as Mauritania, Egypt, or Tunisia, through Joint Declarations on Strategic and Comprehensive Partnerships/Partnership on Migration and the corresponding Action Plans for their implementation.

In such dialogues the partners agree to cooperate on key migration issues, including the prevention of illegal migration, enhancing efforts to combat migrants smuggling and human trafficking, readmission cooperation, and also on the promotion of legal migration pathways. Within this framework, **visa policy could serve as a strategic tool to foster broader cooperation**, such as improving visa issuance procedures for instance by harmonising the list of required supporting documents or creating legal migration opportunities, including labour migration schemes. Furthermore, using visa policy tools can also facilitate progress in other policy areas, particularly in readmission cooperation.

Migration Partnership Dialogues could offer a promising platform for deepening cooperation between the EU and third countries on visa and migration matters. By integrating visa policy into broader migration partnerships, the EU can not only enhance its control over migration flows but also promote legal mobility and foster more balanced relationships with key countries of origin and transit.

d) Visa reciprocity and equal treatment – the power of diplomatic efforts

Pursuant to the reciprocity mechanism outlined in Article 7 of the Visa Regulation, an essential component of the EU visa policy, the Commission is obligated to take steps with the non-reciprocating third country in order to restore visa-free travel. Should diplomatic negotiations fail to yield results within a reasonable period of time, the Commission is empowered to adopt a delegated act temporarily suspending the EU visa waiver for the non-reciprocating country. This legal framework was affirmed by the European Court of Justice in its recent judgment in Case C-137/21, which upheld the Commission's discretion in the context of the reciprocity mechanism and endorsed its preference for diplomatic solutions as the most effective strategy to resolve such non-reciprocity issues.

Today still three Member States (Romania, Bulgaria and Cyprus) continue to be subject to the visa requirement for travel to the United States. It is welcome that the Commission maintained a proactive approach and continues the operational work on this issue in close cooperation with the Member States concerned on the basis of tailor-made work plans designed to achieve reciprocity. Hopefully all diplomatic efforts will soon yield concrete results. In the context of visa reciprocity, it is essential to preserve the visa-free status of the Member States that already benefit from visa waiver.

The reciprocity mechanism is a crucial tool for ensuring equal treatment of EU citizens in visa matters. While the European Commission shall continue its efforts to achieve full reciprocity with the US for the three Member States, as well as addressing other existing visa-related issues with the US, there are Member States facing other challenges when travelling abroad. In several third countries, whose nationals need a visa to travel to the EU, such as China or South Africa, the entry/visa requirements for EU citizens are inconsistent, with different rules applying for certain Member States⁸. Such discrepancies can undermine the principle of equal treatment for all EU citizens and create unnecessary barriers to international mobility.

⁸ **China:** Member States which need a visa: BG, HR, CY, CZ, DK, EE, FI, EL, LV, LT, MT, PT, RO, SK, SI, SE, (IS, NO)

South Africa: Member States which need a visa: EE, LV, SI (LT visa-free for 30 days, others for 90)
(<https://www.dha.gov.za/index.php/immigration-services/exempt-countries>)

Belarus: Member States which are visa-free: PL, LV, LT (others needed a visa until recent change: as of 19th July 2024 visa free entry is extended to all EU MSs, temporarily until 31st Dec 2024)
(<https://mfa.gov.by/en/visa/freemove/>)

Türkiye: only CY needs a visa

(<https://www.mfa.gov.tr/visa-information-for-foreigners.en.mfa>)

The Presidency believes that it is essential to ensure that all EU citizens are granted equal and fair treatment when traveling to third countries. Therefore, it would be valuable to identify those visa required third countries that apply differentiated rules for the entry of EU citizens and would worth exploring the potential avenues **how the uniform entry rules for all EU citizens could be secured** and what diplomatic efforts the Commission and the External Action Service, including through EU Delegations, together with Member States, could take to ensure that these countries provide equal conditions for entry for all EU citizens. It is also important to emphasize that EU citizens do not pose any security or migratory risk to these third countries, and as such, any differentiated visa rules are unjustified.

The Commission could take a proactive role in advocating for uniform entry requirements for all EU citizens regardless of their Member State of origin, with the objective of persuading the third countries concerned to harmonize their entry policies for all EU nationals. Such diplomatic efforts would reinforce the EU's commitment to the principle of non-discrimination and the right to travel of its citizens on the global stage, without being subject to differentiated or discriminatory practices. Achieving this would not only facilitate smoother travel experiences for EU citizens but also promote mutual respect for the principles of equality and reciprocity in visa policies.

Questions to Member States on certain key issues:

1. *In view of the European Commission's commitment to develop an Union strategy on visa policy, do you consider it timely and useful to formulate and adopt Council conclusions providing a summary of results of discussions under previous presidencies as well as giving political orientation and guidance on the future of visa policy that could also serve as a basis for a possible strategy to be developed by the Commission?*
2. *Do you have any further suggestions either for operational or for legislative measures that are not included and addressed in the Presidency note?*
3. *Do you share the view that among the safeguard measures against visa abuse the possible restrictions in relation to ETIAS should be explored and considered in a future legislative exercise? Do you find it relevant to examine how these new tools (EES, ETIAS) can improve the assessment of the visa free countries and how ETIAS could be used as a gradual restriction measure within the framework of or prior to the visa suspension mechanism?*
4. *Do you agree that in the longer term a more personalised approach could be considered by applying individual measures in visa restrictions/facilitations as well as in ETIAS authorisations based on the behaviour and the travel history of the individual applicants?*
5. *Do you agree that the potential of the data-providing capacity of eu-LISA could be further explored, including the analysis of the shared data, in order to have more comprehensive statistics on visa holders applying for asylum or on other visa abuse? Do you consider it useful to examine how to make more effective use of the data collected and stored in order to reinforce security?*
6. *What do you think about introducing clear timeframes in the Council to streamline the decision-making process on the proposals for visa measures under Article 25a mechanism?*
7. *Do you share the view that the Commission/EEAS could take diplomatic efforts not only to resolve reciprocity issues with third countries but also to advocate for equal treatment of EU citizens when travelling to third countries, knowing that there are limitations of what EU can offer (or not) to these third countries in return?*