

Brussels, 7 July 2026
(OR. en)

11195/26

LIMITE

**JAI 915
ASIM 40
RELEX 917
COHOM 110
FREMP 237
FRONT 128**

NOTE

From:	Presidency
To:	Working Party on External Aspects of Asylum and Migration (EMWP)
Subject:	Human rights-based approach to migration

At its meeting on 11 September 2025 under the Danish Presidency, EMWP discussed the need for a human rights-based approach (HRBA) in the EU's external actions on migration. The discussion focussed on recent work in this area and the tools available to ensure respect for human rights in the external dimension of migration. It was noted that the EU and Member States are tied by Article 2 and 21 TEU in both their internal and external action and that these should guide action on all aspects of migration policy, including in relation to implementation. In line with these obligations is the EU Action Plan on Human Rights and Democracy (2020-2027) which sets out the action to advocate for a human rights-based approach that focuses on persons in vulnerable situations, including migrants, refugees, asylum seekers, internally displaced and stateless persons in line with international human rights obligations under international law and standards, and through existing policy and legislative frameworks. Moreover, the Council affirmed in January 2026 in its Conclusions on EU priorities in UN Human Rights Fora 2026 that the EU will continue to advocate for and implement a human rights-based approach to cooperation on migration. Upholding HRBA standards is a key part of engagement with third countries and adds legitimacy to the EU's work in this area. HRBA is fundamental to implementation of EU and national migration policies.

As was noted at EMWP in the Danish Presidency's presentation on external EU HRBA standards, upholding international human rights law requires appropriate monitoring and safeguarding work. The new Pact on Migration and Asylum will require the same diligence and it is essential that we learn best practice lessons from the EU's past work in this area, so both the internal and external aspects of human rights-compliant migration policy, governance and management are aligned. Both the EU and its Member States are jointly responsible for maintaining domestic and international trust as reliable partners in the area of migration. We must learn from each other and the previous work on applying the HRBA in the external dimension of migration (including monitoring, risk management and implementation of safeguards) to ensure coherence across the Union. One measure agreed last year, under the initiative of the DK Presidency, was to update all MOCADDEM action files to ensure the HRBA was reflected and regularly assessed.

The Presidency considers it an opportune time to continue the discussions on implementing the HRBA in migration policies and take stock of progress since the last EMWP discussion on the topic. With the entry into application of the Pact on Migration and Asylum on 12th June, the Common European Asylum System (CEAS) has been updated to respond to the challenges of irregular migration flows into and across the EU. It has strong safeguards to ensure compliance with fundamental rights. The adoption of new rules on safe third countries and of the first EU list of safe countries of origin has also taken effect.

The Asylum Procedure Regulation and the Screening Regulation, two key instruments of the new Pact, establish an obligation for Member States to set up independent mechanisms for the monitoring of fundamental rights in the context of the asylum border procedure and the screening process. For these purposes, the Fundamental Rights Agency (FRA) has developed guidance for EU Member States on national monitoring mechanisms under the Migration and Asylum Pact, including a practical monitoring tool setting out a common methodology for the said monitoring mechanisms.¹

¹ https://fra.europa.eu/sites/default/files/fra_uploads/fra-2024-independent-border-monitoring-mechanisms_en.pdf

Moreover, in June 2026, the European Union Agency for Asylum (EUAA) has also started implementing its new role monitoring the operational and technical application of the CEAS. A revised monitoring methodology was adopted by the EUAA Management Board in June 2026 and sets out the framework for conducting the monitoring exercises. Monitoring is comprehensive, which means that it covers all the aspects of the CEAS, taking into account, inter alia, the respect for fundamental rights, child protection safeguards and the specific needs of persons in a vulnerable situation.

The new Return Regulation agreed by the co-legislators in June 2026 will enable faster and more effective EU-wide procedures for the return of persons irregularly staying in Member States. The Regulation complements the Pact on Migration and Asylum and will contribute to its effective implementation.

Of note in this context is the introduction of EU level rules that will allow Member States to establish return hubs in third countries. Third country nationals who do not or no longer have a right to remain in the Member States could be returned to such hubs in third countries, which could also serve as transfer centres. The Regulation emphasises that any agreement or arrangement establishing such hubs may only be concluded with a third country that respects international human rights standards and principles in accordance with international law, including the principle of non-refoulement, and Member States must inform the Commission and other Member States before the agreements enter into application.

The success of the Pact overall (including returns) will also depend on our work in the external dimension in establishing and maintaining partnerships with key countries of origin and transit and in ensuring all fundamental rights safeguards are implemented. Well-functioning partnerships are essential to achieve cooperation on preventing departures and migrant smuggling, as well as smooth return and readmission of those without a right to remain. These partnerships should be mutually beneficial, and they must take account of the needs and interests of our partners and must at all times be done in full compliance with human rights obligations and in accordance with international human rights norms and standards.

The framework of Global Europe in the 2028-2034 Multiannual Financial Framework will be relevant for a deeper integration of the HRBA for migration in the implementation of the Union's migration diplomacy. Not prejudging the negotiations on the respective Regulations, key issues may include partner countries compliance with human rights obligations as conditionality requirements; the full respect of international human rights law while stepping up cooperation on migration with partner countries and providing effective human rights protection under external EU-funded programmes.

Upholding human rights and our protection obligations under EU law and international refugee and human rights law, as well as ensuring compliance with all procedural safeguards that are available under EU asylum and return law, will play a key role in underpinning confidence in EU migration policies and programmes both in the EU and in partner countries. In the cooperation with external agencies and international partners in line with the EU's migration diplomacy and under the framework of Global Europe, ensuring that fundamental rights of migrants are upheld will entail closer monitoring by the EU stakeholders.

Delegations are invited to share their views on the following questions:

- As the new Pact's implementation requires each Member State to set up a national mechanism for monitoring of fundamental rights, how can we use the individual learnings to ensure implementation of the EU's overall HRBA on migration, in particular in the external action of the EU?
- As the Pact is standardising migration management rules across the EU, how can we ensure Member States' national HR monitoring is consistent and that the lessons learnt are shared?
- Our relationship with partner countries relies on trust in the consistent standards applied by the EU in all aspects of the management of migration policy. How can we ensure that Member States' domestic and the EU's external HRBA, including assessment and accountability mechanisms are implemented in a coherent manner?