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# **The Future of the European Union Agenda on Asylum, Migration and Borders**

*Check Against Delivery  
Seul le texte prononcé fait foi  
Es gilt das gesprochene Wort*

Conference of the European Policy Center and King Baudouin  
Foundation

**Brussels, 4 October 2004**

Mr. Chairman,

Ladies and Gentlemen,

It is a great pleasure to be invited to speak at this conference organised by the European Policy Centre and the King Baudouin Foundation.

2004 is an important year. We have a new European Parliament following the elections in June, the Constitutional Treaty has been adopted, a new Commission is in the process of appointment - all this against the background of an unprecedented enlargement of the Union to 25 Member States. In addition, in the policy area for which I have been responsible over the last 5 years, 2004 represents the crossing point between the first and the second phase of the delivery of an area of justice, freedom and security.

The Amsterdam Treaty set this objective. The European Council, meeting at Tampere in October 1999, translated it into more detailed policy orientations and asked for a series of concrete measures to be completed within 5 years, i.e. by 1 May 2004.

I would like today firstly to present an assessment of the Tampere programme and secondly to give you an overview of the on-going debate on future priorities, including the context in which this debate is taking place.

The Commission's assessment of the first phase of Tampere was adopted on 2 June 2004 and it is a positive one. Back in 1999, few would have predicted the level of progress we have achieved in such a new and sensitive area. Justice and home affairs are now firmly at the centre of European debate and reflected in our relations with third countries. The dynamism in this sector is undeniable.

The first stage of the Common European Asylum system is complete. The four main legal instruments on asylum – constituting its “building blocks”- are in place : the Reception Conditions Directive, the soon-to-be-approved Asylum Procedures Directive, the Qualification Directive and the Dublin II Regulation. They all aim at a general objective – to level the asylum playing field and lay the foundations for a Common European Asylum System.

My aim was to create minimum standards which fully respect our international obligations and I believe that we have done that. Some may say that the standards are too low – and I certainly admit that they are often not those which the Commission originally proposed; or as is the case with the procedures Directive that they are even insufficient and allow for too many national derogations to the detriment of the integrity and efficiency of the whole Asylum System. Nevertheless, they are set in European law and therefore a process of monitoring and evaluation is now beginning which can lead to improvements in the future.

On these foundations further structures have to be built to safeguard the EU as a single asylum space and to ensure that our citizens have confidence in a system that gives protection to those who require it and deals fairly and efficiently with those who do not.

The results on the side of the Common Migration Policy are also clear to see. On the one hand, much progress has been made in the fight against illegal migration. The Council has adopted three action plans on the fight against illegal migration, control of external borders and on return policy.

These action plans require legislative measures as well as operational coordination, and they are currently being implemented.

On the other hand, the level of ambition reached by the Directives adopted in the field of legal migration – family reunification, admission of students – is not sufficient and will need further improvement. However, in this field too, the first building blocks are in place and we will be able to build on that. A major step has been taken with the adoption of the long-term resident status Directive which will offer equality of treatment with nationals in a number of fields and the possibility to move and settle in another Member State.

Unfortunately, no progress has been made on the issue of economic migration. This is the area where Europe has to find a way forward in the years ahead if it is to overcome the challenges of both an ageing and shrinking population without losing its economic competitiveness. A debate will be launched later this year on the type of approach which the EU needs in this field.

The Commission has also turned its attention to the integration of migrants, a policy area which requires a fine tuning, tailor made approach, an approach which addresses the specificities of the each Member State. Exchange of information and experience between Member States has been promoted through the activities of the National Contact Points on integration established in 2002. A handbook of good practice will be published later this year based on the work of a number of experts, coordinated by the Contact Points.

As far as border controls are concerned, we have made huge progress, in particular with the agreement to set up an Agency responsible for external border management at European level. The Agency is expected to take up its responsibilities from 1 May 2005. Its tasks will include operational coordination between Member States, training of border guards, carrying out risk analyses and providing Member States with technical support for joint return operations. It will play a substantial role in facilitating co-operation between the Union and third countries in controlling the EU's external borders.

Issues of security have been high on the political agenda in recent months and the Commission has responded in a number of ways, including presenting concrete proposals for the integration of biometrics into visas, residence permits, passports and other travel documents issued by Member States. This will provide for a reliable link between the document and its holder.

In this area, the development and establishment of a Visa Information System (VIS) has had top priority. The VIS will be a system for the exchange of visa data between Member States and thus primarily an instrument to support the implementation of the common visa policy. It will significantly improve the examination of visa applications and ease checks at the external borders and within the Member States. In parallel the modernising and updating of the Schengen Information System (SIS II) is currently underway together with its extension to the New Member States.

The external dimension of immigration, asylum and border policy has also been developed. It is now recognised that without a close dialogue with third countries, which seeks to create partnerships and cooperation over issues which are more and more seen as of common interest, it will be impossible to manage successfully EU policy.

Discussions must be broad, ranging from procedures for admitting legal migrants to issues of integration, the control of illegal migration, readmission and return.

Here again we have made considerable progress in creating trust and understanding and in developing forums and regional processes in which to develop partnership activities.

Finally, the financial dimension, till now almost a phantom in these areas, has been steadily growing. Cooperation between Member States administrations has been supported through the ARGO Programme, whose budget has been steadily increasing. The principle of burden sharing has been given substance through the development of the European Refugee Fund, which will soon enter into its second phase. The European Parliament has made funds available through the INTI programme to support networking and transfer of experience in the area of integration. With the new financial perspectives for 2007-2013, the EU budget should finally provide substantial funds for applying the solidarity principle between the Member States and to support the development of the area of freedom, justice and security.

This leads me to the second issue I wanted to present to you today - the on-going debate on the new multi-annual programme in Justice and Home Affairs and the context in which this is taking place.

In its Conclusions, the European Council of 18 June this year welcomed the Commission's assessment of the first phase of the Tampere programme and confirmed that the time has come to launch the new phase of the process of creating a European Justice, Freedom and Security programme. The Council and the Commission have been invited to prepare this for examination by the European Council in November.

The next phase will have to take into account the new Constitutional treaty. Once entered into force, the Community method will apply to all the JHA areas, including judicial and police cooperation. Moreover, they will fall to a large extent within the scope of qualified majority voting and co-decision, meaning a reinforced role for the European Parliament in the decision-making process and an increase in democratic legitimacy.

As regards the substance of the various policies, the new Constitutional treaty introduces a specific legal basis for important policy areas such as the integration of third-country nationals and the Common European Asylum System.

Nevertheless, I believe that the new programme should be based on the principle that, insofar as the new Constitutional treaty has not entered into force, we have to exploit in the meantime all the possibilities of the current treaties.

In particular, it should now be possible for the Council to decide to use article 67§2 of the EC Treaty and deal with all measures regarding immigration and external borders by the co-decision procedure and Qualified Majority Voting. This will be possible anyway with regard to asylum policy as a consequence of the adoption of common standards in the areas foreseen in article 63. Apart from the fact that this is a political commitment by Member States, as already stated in the Declaration annexed to the Nice treaty and due 'immediately after 1 May 2004', this would also reflect the positions expressed in the framework of the Inter Governmental Conference by all Member States.

In some areas the evidence suggests that further legislation will be needed, but there must also be a new focus on operational delivery on the ground, making the tools and legislation already in place work to their full potential.

In the next 5 years and more, regarding immigration, two main challenges will have to be addressed. The first one is to take a realistic approach as regards economic migration, in accordance with the economic and demographic evolution of our continent. It is urgent to fill the gap in the existing EU legislation on legal immigration by setting up a common framework for the admission of labour migrants.

The second challenge lies with integration policy. The EU initiatives on legal migration must be accompanied by a vigorous integration policy. Admission and integration policies are inseparable and must reinforce each other. Member States can learn from each others' experiences in this field and the Commission is working very closely with them to improve the exchange of information and best practice. In line with the new Constitutional Treaty, national integration policies should therefore develop within a European framework. The Council is considering the adoption of a series of common principles on integration which will help to shape this framework and the work of the National Contact Points on integration will be developed in the years ahead to promote the exchange of information and good practice.

In the years ahead, the external component of the EU's policy on migration will need increasing attention. In a globalizing world where people move more easily, the EU needs to have its policy in place to react, to take advantages of the opportunities mobility can bring while minimising the disadvantages that can result.

Migration to Europe is mostly related to the major economic, demographic and political differences between the EU and neighbouring countries. In order to create a sufficient and reliable basis to promote dialogue and cooperation, the Commission has insisted that migration, asylum and related subjects become an important element in the framework of the European New Neighbourhood policy. The action plans to be adopted in the coming weeks all contain an important chapter on migration and asylum. Subjects such as labour movement, strengthening the links between diaspora and their countries of origin and the possibilities of making migrant remittances cheaper and more reliable can now be discussed with the neighbouring countries on a structural basis.

I am confident that in the coming years the EU will succeed in finding a balanced approach and that we will be able to develop migration packages that will successfully address the challenges and make the most of the opportunities for both sending and receiving countries. The launching of the AENEAS programme, specially designed to provide third countries with technical and financial assistance in their efforts to better manage migration, comes right on time.

In developing our external policies, we need to strengthen our policies that aim to address the root causes for migration. Let me underline that I will be one of the first to admit that when it comes to migration management there are no easy or quick solutions. Addressing the root causes also means strengthening the link between migration and our development policy as a long-term objective.

I believe that the external dimension of asylum will also grow in importance. In our Communication "Improving access to durable solutions", the Commission has proposed that the EU address the issue of enhancing protection in the regions by establishing EU Regional Protection Programmes.

The objective of such programmes being to enable the countries in the region of origin to offer effective protection to persons requiring international protection as soon as possible and as closely as possible to the countries of turmoil. In line with previous Communications and a study on resettlement, the Commission has also proposed that an EU wide Resettlement Scheme should play an important part in the EU Regional Protection Programmes. Such a scheme could help ensure the more orderly and managed entry into the EU of persons in need of international protection. We know also that third countries value resettlement as an important factor in genuine responsibility sharing. Strategically used there is no doubt that resettlement could protect more refugees, result in a more satisfactory partnership with third countries and restrict the opportunities for human traffickers and the organised criminals who prey on the vulnerable.

The Durable Solutions Communication also outlines how the EU could best address the mixed migratory movements with which countries in the region of origin and of transit are faced, and how the EU should work with these countries, in a framework of genuine burden sharing and not shifting, based upon a solid partnership. An example of testing out this envisaged approach we find in the Mediterranean region where countries, formerly of migration, now gradually transform into countries of transit and in due time into countries of first asylum. The EU has a responsibility of assisting these countries with that transforming process, and it is from that perspective that this region, and in particular the humanitarian tragedy which happens on the Mediterranean on a daily basis, were discussed during the Informal Justice and Home Affairs Council of last week.

I know that fears have been expressed that ideas put forward by some Member States would factually be a re-launch of the proposals submitted last year by the United Kingdom, ideas which were not being endorsed by the Thessaloniki European Council. The ideas now launched are not about that. The German minister for the interior Minister Schily suggested the processing of claims of those intercepted at the international waters in the Mediterranean in centres in North-Africa in order to prevent a further loss of lives. Whilst there was no common ground found at the Justice and Home Affairs Council as yet, I have expressed an open mind to these approaches. However, such approaches will in my view need to meet a series of conditions, in particular:

- the EU needs to remain truthful and faithful to its humanitarian tradition, its common values and to its conception of fundamental rights;
- any action we take needs to be done in full co-ownership with the third countries of transit involved;
- the third countries which whom we envisage together addressing the humanitarian tragedies need to acceded and adhere to all relevant international legal instruments, in particular the 1951 Refugee Convention;
- we need to complete the creation of our Common European Asylum System, as also envisaged by the Constitutional Treaty, and any action taken need to comply with and be complementary to the rules of that System, rather than to substitute it;

- finally, but not least importantly, a number of very substantial and difficult legal questions will need to be resolved before embarking on new processing approaches; in particular how to address the need for legal review, which jurisdiction would be applicable in any such centre, will there be a scheme for resettlement to the EU, and how is the enforcement of negative decisions ensured?

This is what we could further explore in the mid term; however, in the short term, and in order to address the humanitarian crises, the Commission could explore the possibility of setting up humanitarian reception centres in the countries bordering the Mediterranean, so both in the southern EU Member States as well as in the North African countries. In such approach the Commission deems it important exploring with UNHCR what role they could play in such centres.

In that perspective the project to which I referred during the press conference after the JAI Council could provide useful findings for taking forward work with the countries in North-Africa. I there announced that the EC to finance a project on institution and capacity building in 5 North- African countries, namely Libya, Morocco, Mauritania, Tunisia and Algeria, which could assist in improving their national asylum systems. It is the predecessor of the AENEAS programme, of which I just spoke, budget line B7-667, which finances, under its 2003 budget year, a project to be undertaken by UNHCR. Let me tell you very clearly what this project is and is not about.

The general aim of the project is to assist the countries in better addressing the reality of the mixed migratory movements, consisting of both persons who have a valid claim for international protection and would-be economic migrants who abuse the asylum channel. This would be done by improving the countries' institutional capacity in the area of asylum and migration. Its specific goals are three fold:

- strengthening the countries asylum systems as an integral part of their migration management, amongst others by assisting in the adherence of the countries to all relevant international refugee law instruments, by developing national asylum legislation, establishing sound and fair asylum institutions, by training government officials and by strengthening their own capacity for refugee status determination;
- enhancing knowledge on issues related to the asylum/migration nexus, by conducting studies and establishing a network of local NGOs and build their capacity to deal with refugee issues;
- providing safeguards for asylum seekers and refugees, by ensuring that measures aimed at preventing of irregular migration include safeguards for asylum seekers and refugees, raising awareness among officials, border guards and police and establishing an information exchange system with the authorities of the third countries.

This project does not include the processing of asylum claims nor does it finance reception centres or otherwise the reception of asylum seekers. It focuses purely on preparatory work, and is indispensable, as both the UNHCR and the Commission sees it, in preparing the transformation process of a country of transit into a country of first asylum.

Furthermore, my services are currently developing a comprehensive integrated approach to managing migratory movements, including refugee movements, in the Mediterranean region, the keyword of which will again be co-ownership with the third countries involved. However, this important initiative will be for my successor to present later to the Council.

Finally, I would like to point out that it is also significant that the debate on the next multiannual programme in the areas of Justice, Freedom and Security coincides with the discussions on the establishment of the next financial perspectives for the period 2007-2013. As justice and home affairs is maturing into one of the key policies of the Union, it is necessary to review the type of policy instruments that can meet the Union's objectives in the most efficient way. Justice and home affairs is about to take on a new operational dimension, and the policy mix needs to place a greater emphasis on financial intervention than has been the case to date. This is particularly so in the areas of external borders, asylum and immigration, where the further development of common standards go hand in hand with the necessity of a fair sharing of responsibilities and solidarity between Member States.

### **Conclusion:**

Our remit is clear – we have come halfway to a Common European Immigration and Asylum Policy and to a more coordinated approach to managing our external borders– but there is still some way to go.

I must confess that I am proud of what has been achieved at EU level and in so short a time. The foundations of a new – European – approach to immigration, asylum and border management have been laid. But I am sufficiently humble as well to realize that it will be for my successor, the Vice President designate, and in whom I am fully confident, to continue the construction so as to achieve a true single European area of justice, security and freedom for all the residents of the Union. That is what our citizens demand, that is what third country nationals living in the EU demand and this is what our conscience demands.

Thank you for your attention.