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Section 2.3 Key developments

Amidst the war in Ukraine and with the Presidencies of the Council of the European Union (EU) trying to push for a breakthrough in the CEAS reform, migration and asylum remained high on the EU's policy agenda. Drawing inspiration from the European response in addressing the protection needs of persons fleeing Ukraine, the President of the European Commission, Ursula von der Leyen, made reference to asylum and migration in her State of the Union address in September 2022,134 expressing the will to see such determination and solidarity in the European migration debate. Viewing the EU actions as a blueprint, the President of the Commission called for fair and quick migration and asylum procedures; a system that is crisis-proof and quick to deploy; a permanent and legally-binding mechanism that ensures solidarity; and effective controls of the EU's external borders, in line with the respect for fundamental rights.135

Overall, key areas of focus in migration and asylum policy in Europe in 2022 centred on:

- Advancing the adoption of the instruments included in the Pact on Migration and Asylum through a gradual approach on the basis of a balance between solidarity and responsibility;
- Effective management of external borders, which has implications for the effective internal functioning of the Schengen area;
- Strengthening cooperation with countries of origin and transit to address irregular migration, ensure effective returns and readmission; and
- Protecting those who may be in a position of vulnerability, such as children and victims of human trafficking.

Reflecting the importance accorded to migration, the 18-month programme of the presidential trio presented in December 2021, prepared by the then-upcoming French, Czech and Swedish Presidencies, included migration, the Schengen area, and police and judicial cooperation as priority areas. An overarching aim of the trio programme was to strengthen the Schengen area as an area of free movement without internal borders. Key components of this included the effective management of external borders; a functional asylum and migration system based on a balance of responsibility and solidarity; avoiding the loss of life and ensuring protection to those who need it; and strengthened cooperation with countries of origin and transit to address

irregular migration and human trafficking and ensure the effective return of rejected applicants.[136]

In January 2022, UNHCR offered its recommendations to the French and Czech Presidencies, underlining that the reform of CEAS has scored only some progress and acknowledging the significant agenda-setting power of the two presidencies toward achieving breakthroughs. The recommendations went along two interlinked dimensions toward negotiating a sustainable asylum reform based on the pact and its elements; and providing more support to the countries and regions where most forcibly-displaced people live and addressing root causes of forced displacement and irregular migration.[137]

In line with the orchestrated effort reflected in the trio programme, both Presidencies of the Council of the EU included priorities related to migration and asylum in their programmes. The French presidency (January-June 2022) aimed to further develop the external dimension of migratory policies by strengthening cooperation with the main third countries of origin or transit through action plans that set out clear objectives and concrete activities, which are based on available instruments, such as visa policies and financial schemes.

The Presidency also proposed a gradual approach in advancing negotiations on proposed instruments, ensuring that each step taken has a satisfactory balance of protecting the external borders, responsibility and solidarity.[138] Through this approach, which was adopted by the JHA Council of 3 February 2022, progress was made toward the adoption of the Pact on Migration and Asylum and significant steps were taken for the reform of the Schengen area. Importantly, the Presidency facilitated a quick and protection-oriented EU response to address the needs of millions of people fleeing Ukraine, offering protection, immediate access to rights, as well as humanitarian and financial assistance.[139]

The Czech Presidency in the second semester of 2022 also included migration and asylum among its priority areas, focusing on the management of the crisis linked to the arrival of displaced persons from Ukraine and addressing new potential security risks.[140],[141] The Presidency fostered a common response to the consequences of the Russian aggression, including the launch of the EU Internal Security and Border Support Hub in Moldova for mutual cooperation. One of the priorities of the Czech Presidency was the prolongation of temporary protection until March 2024, while emphasis was placed on ensuring access to education, health care and the labour market for beneficiaries of temporary protection to catalyse their effective integration into the host country

In view of developments in Ukraine and their impact on the external dimension of the EU’s migration policy, the presidency focused primarily on cooperation with the Eastern Partnership countries and the Western Balkans. It also addressed the functioning of the Schengen Area, which includes Croatia as of January 2023, while the ground was also prepared for the enlargement of the Schengen Area to include Bulgaria and Romania. Building on the gradual approach put forth by the preceding French presidency, the Czech presidency facilitated the resumption of negotiations that had been stalled for several years. In the JHA Council in December 2022, broad support was shown for fostering solidarity and responsibility in the field of asylum based on a system without mandatory quotas.[142]

A two-day ministerial conference was organised by the Czech Presidency in October 2022 in the frames of the Prague Process, an intergovernmental dialogue on migration which was established in 2009 by the first Czech Presidency of the Council of the EU. It brings together representatives of almost 50 countries, the European Commission, the EUAA, Frontex, UNHCR, the IOM, the Migration, Asylum, Refugees Regional Initiative (MARRI), the Joint Coordination Platform (JCP) and the International Centre for Migration Policy Development (ICMPD). The ministers and high-level officials from participating countries discussed current migration challenges, including the impact of the war in Ukraine and the dramatic increase of irregular migration along the Western Balkan route, which was the main route for irregular migration to the EU in 2022. Confirming the will to strengthen cooperation and partnerships, the ministers adopted a Joint Declaration and an Action Plan for 2023-2027.

In the Joint Declaration, parties expressed their grave concern over the impact of the Russian aggression on the humanitarian situation in Ukraine and global security, health and socioeconomic developments which had severe implications on migrants and mobility, resulting in large-scale displacement. They emphasised the key role of regional processes on migration in achieving shared objectives and acknowledged the necessity of a whole-of-route approach. The parties also reaffirmed the importance of working together along six thematic areas:

1. Preventing and fighting irregular migration and migrant smuggling;
2. Strengthening capacities in the areas of asylum and international protection and expanding protection capacities in the region;
3. Promoting readmission, voluntary return and sustainable reintegration;
4. Addressing legal migration and mobility with a special emphasis on labour migration;
5. Promoting the integration of legally-residing migrants into their host societies; and
6. Making migration and mobility positive forces for development.143

In the Action Plan, the parties identified 53 concrete actions to be taken throughout 2023-2027 within each thematic area to achieve common goals in migration and asylum.144

In an effort to increase protection for the most vulnerable, in February 2022 the European Commission earmarked EUR 7 million to support the fight against trafficking in human beings. The funding was announced through two calls for proposals and support projects aimed at breaking the business model of traffickers and improving the protection, support and empowerment of survivors. It is meant to materialise priorities set in the EU Strategy on Combatting Trafficking in Human Beings (2021-2025).145

The protection of children was another area of focus in European policymaking in 2022. In February 2022, the Council of Europe hosted a plenary session on the rights of children in migration, with topics covering age assessments and guardianship for unaccompanied minors. 146 The Steering Committee for the Rights of the Child (CDENF) approved a draft recommendation relating to human rights principles and guidelines on age assessments for children and adopted a Draft Explanatory Memorandum of Recommendation (CM/Rec(2019)11) on effective guardianship for unaccompanied and separated children in the context of migration. 147

Similarly, on 17 February 2022, the European Commission discussed guardianship for unaccompanied minors in EU Member States, based on a report by FRA. Despite legislative changes introduced over the past years in many Member States, the report indicates that national guardianship systems continued to face challenges, such as long procedures to appoint a guardian, limited local resources and conflicts of interest between reception and guardianship services, which in some cases operate under the same authority.148

In April 2022, FRA published an updated version of the Handbook on European Law relating to the Rights of the Child, which is a practical guide and introduction to European law for lawyers, judges, prosecutors, social workers and non-governmental organisations (NGOs).149

Focusing on the protection of children's rights, on 9 June 2022, the Council adopted conclusions on the EU Strategy on the Rights of Child. As a result of the war in Ukraine, the Council gave specific attention to the need to protect children from recruitment by armed forces, illegal adoption, trafficking in human beings, sexual exploitation and family separation.150

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