

Mr Jaap de Hoop Scheffer
Chairman of the Advisory Council
on International Affairs
P.O. Box 20061
2500 EB The Hague

Date 15 May 2019
Re Request for advice on asylum and migration

Dear Professor de Hoop Scheffer,

My colleague, the Minister of Justice and Security, joins me in requesting your attention to the following matter.

There are a number of European issues that are priorities for the Netherlands about which there is significant disagreement, including the EMU, climate action, the rule of law and migration. However, with regard to migration, and asylum in particular, the impasse is such that no progress has been made for some time and many worry that it can never be broken.

Irregular migrants will continue to attempt to enter the Union, and the issue of migration will remain on the agenda as a result of a number of factors: expected population growth in Africa, climate change, shifting geopolitical relations, dysfunctional states and rule-of-law issues in many countries. Since the migration crisis of 2015-16, the Union has proven incapable of modifying its legislative framework so as to prepare it for the next major influx and the crisis this could unleash.

Migration flows are variable. In 2015-16 the main route for irregular migrants ran via Greece and the Western Balkans and consisted in large part of Syrians fleeing the civil war. After the EU-Turkey statement and the closure of the Western Balkan route, those numbers fell dramatically. The central Mediterranean route then became the primary route, until a sharp drop-off occurred in the summer of 2018, precipitated in large part by agreements with Libya. In 2018 and 2019 the Western Mediterranean route was the most active. In contrast to 2015-16, when the eastern route was dominant, migrants using the other two routes are often motivated by economic factors. Most of these migrants are not entitled to protection and will have to be repatriated after completion of the asylum procedure. However, not enough of these migrants are not being sent back in practice.

Although we are not experiencing a crisis on the level of 2015-16, we are experiencing a political crisis. Since the spring of 2016 the member states have not been able to reach agreement on legislative proposals to amend the Common European Asylum System. In that connection it is clear that the member states that joined the EU in 2004 strongly believe in preventing immigration on any scale. The best-known point of contention is whether a mandatory solidarity mechanism for resettling asylum seekers should be established. There is also disagreement, especially among member states on the southern border, about how long a member state remains responsible for an individual asylum seeker and about whether the use of the 'border procedure' should be made mandatory.

As a result of the dysfunction of the European asylum system, the Netherlands is now dealing with substantial secondary migration flows: over half of all asylum seekers who

report to the Dutch authorities have not yet been registered in another member state. A related and more recent phenomenon that the Netherlands is currently grappling with is the problems in and around asylum seekers' centres caused by asylum seekers who have little chance of being granted asylum, either because they are from safe countries or for some other reason. This is why it is more effective for the Netherlands to take action against secondary flows (and by extension, primary flows too) and why it is essential to return more migrants to their countries of origin. As long as this does not happen, the pressure on the functioning of the Schengen system will continue.

In short, enhancing the effectiveness of European action in the realm of asylum and migration is vital, particularly in the internal domain (support for joint *external* action, such as the EU-Turkey statement, is greater). In the light of the above, the government would appreciate receiving an advisory report from the AIV, no later than the spring of 2020, which addresses the following questions:

- How can we break the political impasse on asylum issues?
- What opportunities does the Council see for decision-making as a new Commission and European Parliament take office?
- What options does the Council see for decision-making on migration? Are there any conceivable alternatives that could lead to a solution (e.g. lead groups, bilateral agreements, decision-making by consensus)? What recommendations can the AIV make on this issue?
- How can we keep Schengen functioning? Is it advisable to restore the link between asylum and Schengen, and if so, through what legislation and in what way can this best be achieved?

In answering the above questions, the AIV could consult the Advisory Committee on Migration Affairs (ACVZ).

Yours sincerely,

[signature]

Stef Blok
Minister of Foreign Affairs