INTERVIEWS 13.07.2023

‘Headlines like “the EU agrees on asylum reform” are premature’

MEP Birgit Sippel on why a compromise on the new EU asylum reform is still pending and Parliament’s upcoming difficult negotiations with the Council

On 8 and 9 June, the EU interior ministers met at the Justice and Home Affairs Council in Luxembourg to discuss the EU asylum reform. Afterwards, the media reported that the ministers had agreed on a reform. Is this correct?

Essentially, two important aspects are dealt with inadequately in the media coverage of the asylum reform. The first concerns accurate reporting as to where we really stand in the EU legislative process. A mere positioning by the Member States’ ministers is often mistakenly equated with the adoption of a new law. Specifically, the decision taken by the interior ministers on the EU asylum package at the beginning of June only represents the mandate of the Council of the European Union for the subsequent, and foreseeably difficult, trilogue negotiations with the European Parliament. It is therefore not the final version of the legislation, but only a first step towards it. Headlines like ‘the EU agrees on an asylum reform’ were clearly premature.

The second aspect relates to the fact that the ministers still have not taken a position on the entire asylum package. They have only taken a position on four of the original five legislative proposals of the European Commission’s asylum package proposed in September 2020. The European Parliament, on the other hand, already agreed on its position on all five legislative proposals at the end of March. But even after the meeting in Luxembourg, the Council is still lacking a position on the proposal regarding how to deal with migrants in crisis situations. It is important that all proposals – and not just individual parts – are negotiated at EU level, so that we do not end up with a piecemeal reform, but a comprehensive one.

For us Social Democrats, it is particularly important that we do not ‘cherry-pick’ certain elements of the asylum reform, but adopt all of

them. The last few years have shown that many Member States only want to seal off the external borders while showing little will to reform in the area of asylum. This one-sidedness is not acceptable to us.

What are the main differences between the negotiating positions of the Parliament and the Council/Member States?

As I mentioned before, we are facing difficult negotiations. This assumption is based on the divergent positions between the Council and Parliament. We can clearly see this in the infamous asylum border procedure, which is part of the proposal for the Asylum Procedure Regulation. In the border procedure, certain groups of people are to go through a fast-track asylum procedure at the external borders, during which they will most likely be detained and have reduced procedural rights and access to legal assistance.

The border procedures are highly problematic for my social-democratic S&D group, and in the European Parliament, we managed to delete the obligation for EU states to carry out these procedures. Should a Member State nevertheless choose to apply such a procedure, we have ensured that unaccompanied minors and families with children under the age of 12 are exempt. Unfortunately, liberals and conservatives in the European Parliament have resisted exempting children of all ages from the border procedure. Nevertheless, Parliament has toned down the Commission's concerning proposals.

The Council, on the other hand, has gone in the opposite direction and wants to oblige all Member States to apply the procedures, without consideration for families with children. Only unaccompanied minors should generally be exempted. The Council also wants to extend the maximum length of the border procedure to 16 weeks, while we in Parliament envisaged 12 weeks. An extension would also mean extending the detention-like conditions for migrants.

Are there other aspects that Parliament is concerned about?

Member States also want a substantial expansion of the safe third country concept. The intention behind this is to return more people to countries through which they may have only travelled for a short period of time. It is also supposed to make it easier to reject an asylum application as inadmissible. This means that many asylum applications would no longer be examined on an individual basis but would be rejected as inadmissible from the outset, perhaps only because a person has travelled through a supposedly safe third

country.

Our positions are also not particularly close on the issues of solidarity and fair sharing of responsibility between Member States. For Parliament, a mandatory solidarity mechanism would largely rely on the relocation of people seeking protection from countries of first entry to the entire EU and on particular support in cases of Search and Rescue. Contrarily, the most important aspect for the Council is that no Member State should ever be obliged to participate in a relocation mechanism. According to their position, Member States should be able to buy their way out of a relocation of refugees by paying €20,000 per person. Will that actually help Member States at the EU's external borders? I do not think so.

Will there be an agreement on an EU asylum reform before the next election?

We need the negotiations to be completed by the end of March 2024 to finalise a reform before the European elections in June. That is an ambitious timetable, but not impossible. It all depends on the political will and the willingness to compromise. We have to keep in mind that the Council is still not in a position to negotiate all the elements of the asylum reform. To achieve a balanced result, however, we need uniform progress in all areas.

Would such an agreement really improve the situation of Member States and people seeking protection?

If we look at the current situation at the external borders, which in many places is characterised by violations of fundamental rights and a lack of implementation of the applicable asylum rules, I could imagine an improvement of the status quo. For that, however, we need solutions that actually address the needs of the people arriving as well as the local population.

The compromise was praised by the German government as a historic success for a migration policy based on solidarity and the protection of human rights. Do you share this opinion?

After seven years, Member States finally managed to agree on a negotiating position. So, despite all the concerns regarding the content of the agreement, this could be seen as a remarkable breakthrough. This would not have been possible a few years ago. Nevertheless, parts of the compromise found among Member States are very concerning and also deviate substantially from Parliament's position.

Still, who do we help if we can't manage to agree on a reform and continue with the current system unchanged, with all its violations and impunity? We in the European Parliament accept the situation as it is and will push for improvements in tough negotiations with the Council. Eventually, we will have to look at the outcome and consider whether we believe the Member States have moved enough towards a system of humanity and solidarity to get our support for a common compromise on the asylum reform.

This interview was first published in German.



Birgit Sippel
Brussels

Birgit Sippel is coordinator of the Group of the Progressive Alliance of Socialists and Democrats in the European Parliament in the Committee on Civil Liberties, Justice and Home Affairs.