# Positioning paper – United Kingdom

1. General position

The killing of Jo Cox symbolizes how passionate the debate of the British position in the EU has become. Simply because the majority of voters did not chose to leave the EU does not mean that the majority of voters wants to continue giving competences to the EU. The government’s duty should primarily be towards its own citizens and the proposal should be read in light of this. It should be accepted that since the UK is not part of the Schengen Area and is geographically different, being an island, as well as having a different legal background, an ever closer union is not the goal for every country.

It should be noted that the general position of the UK towards migration and refugees is different to the one of any other country in the EU. Since 2003 the net migration to Britain has been over 200,000 per year. In 2015 630,000 migrants arrived into the UK. In absolute terms the UK is the country with the second highest number of foreign born and foreign citizens, whilst at the same time still dealing with the long- term expenses of migration waves in the 60s. The obligation towards these immigrants remains to integrate them and to guarantee them equal opportunities, which has not yet been achieved fully. Any further strain on the system of integration needs to be considered carefully.

It is therefore the general position of the UK to minimize the absolute numbers of asylum applicants to arrive in the UK, to minimize the costs of that system, yet to strengthen security cooperation, as to assure extraditions to properly take place.

1. Reform proposal
	1. Establishing a sustainable and fair system for determining the Member State responsible for asylum seekers

Following the proposal of the Commission this point has been contested the most in the media and Cameron MP has already announced that the UK will not exercise its right to opt-in pursuant Art. 3 Protocol 21 TFEU.

Despite the UK not taking part in this part of the proposal, it should be ensured that the possibility to extradite asylum applicants into the country where they have first registered remains, as has been assured by the Commission[[1]](#footnote-1). Alternatively, it should be ensured that clear responsibilities are attributed, so that extraditions from asylum applicants can be dealt with in a more efficient way. Generally the UK rather supports a system that leaves member states responsible, rather than establishing a distribution key though.

* 1. Reinforcing the Eurodac System & Preventing secondary movement within the EU

In principle the UK is in favour of establishing a database in order to exchange fingerprints and in being able to effectively monitor irregular entries and subsequent movements. This should, however, not undermine the work of UK officials securing the UK border and the identification of asylum applicants in the UK. This should not be the first step towards a shared border control and security services. The work of Eurodac should be limited to the identification and tracking of potential asylum applicants and should not lead to member states having to share sensitive information outside this scope.

Depending on the final proposal, the UK may make use of its right to opt- in, pursuant to Art. 3 Protocol 21 TFEU.

* 1. Greater convergence and a genuine common EU asylum system

The asylum system in the UK vastly differs from the one in other member states and from the one anticipated and planned by the EU, which results from the fact that the EU principally violates the doctrine of Parliamentary Sovereignty and is based on a Civil Law approach.
The resentment against a common asylum system is thus more than Xenophobia, but founded in the legal history.

When the extradition of Abu Qatada, a refugee who was allegedly a high Al Qaeda official, was delayed there have been numerous calls by the government to the European Council and the EU to interpret the ECHR more restrictively, whereas calls from Germany coming at the same time stating the opposite. This case has singlehandedly lead to many people opposing the ECHR and the Human Rights Act, forcing the Government to start marketing campaigns in 2015. This shows that even the indirect influence on UK law is faced with scepticism and the sovereignty of the UK should be respected.

Even if the UK does not opt- into this part of the proposed change, it should be ensured that the standards are not being applied to the UK in the form of a different interpretation of the ECHR.

* 1. A new mandate for the EU asylum’s agency

When considering the new mandate for the EU asylum’s agency the principal concernes named above should be respected. Generally no new competences should be given to the EU. Moreover, national sovereignty should be respected in the broadest way, as well as minimizing any financial strains on the UK.

The position of the UK is that if this cannot be achieved, the UK will not opt- in to the proposed new mandate.

1. “Questions & Answers: Reforming the Common European Asylum System” (05.06.2016), p. 6 [↑](#footnote-ref-1)