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"A" ITEM NOTE

From:	Presidency
To:	Council
Subject:	Draft Council Conclusions on "Taking action to better manage migratory flows"

The Council is invited to adopt as Council Conclusions the text as set out in the Annex to this Note.

Taking action to better manage migratory flows

Strategic approach and operational priorities

The informal meeting of JHA Ministers, which took place in Milan on the 8th of July, following the adoption of the Strategic Guidelines for the JHA area by the European Council, confirmed the common commitment to overcome the current polarization along the principles of solidarity/responsibility, and develop a common narrative and action at the EU level.

The challenge linked to increasing migratory flows and the shifting routes of access to the EU, also as a consequence of measures taken at national level, needs to be addressed with common actions. This is even more important as these migratory flows do not only affect countries on the frontline but Europe as a whole, also due to the large secondary movements taking place.

Pressures recorded on the land border section between Greece and Turkey, and on the Bulgarian-Turkish land border, are now mainly concentrating on the Mediterranean. At the same time, instability at the eastern border (Ukraine), emerging threats in the Middle East (Iraq) as well as in countries on the Silk Route and flows from the Western Balkans have to be carefully monitored since they could potentially create new pressures to which Europe as a whole needs to be ready to respond in a timely manner.

Having this objective in mind, the Presidency has presented some proposals for a possible way forward in order to define a sustainable approach, based on three pillars, to respond to migratory pressure in a structural manner and go beyond the immediate emergency measures. Such approach could be used as a blueprint to address possible future challenges and could be adapted to the specific needs of the emerging situation.

The three pillars encompass cooperation with Third Countries, with a specific focus on the fight against smugglers and traffickers in human beings, the strengthening of FRONTEX's ability to respond in a flexible and timely manner to emerging risks and pressures, and finally actions in the EU to uphold and fully implement our Common European Asylum System, also through increased operational cooperation. This strategic and operational approach builds upon the results of the Task Force Mediterranean, and aims at streamlining their implementation in a flexible manner, to adapt them to emerging trends in migratory flows.

As the main hotspot of migratory flows is currently in the Mediterranean, affecting Europe as a whole, the detailed activities to be implemented in the short term should be primarily focused on that operational area.

I. Action in cooperation with third countries

Action in **third countries** should focus, as a matter of priority, the following key countries, which are currently at the crossroads of migratory movements: Western Africa (**Niger, Mali, Chad, Gambia, Ghana, Mauritania, Senegal, Nigeria**) Eastern Africa (**Sudan, Ethiopia, Eritrea, Somalia**), Northern Africa (**Libya, Egypt, Algeria, Morocco, Tunisia**), as well as the region neighbouring Syria (**Jordan, Lebanon, Turkey, Iraq**) as these countries are taking the brunt of the Syrian refugee flows and are under extreme pressure. In **Libya** all efforts should be made to foster the creation of conditions which allow the possible starting of a comprehensive political dialogue including on migration issues. In the short term international organizations on the ground should be supported in their activities Attention should be paid also to countries on the silk route region, including in particular Afghanistan, Pakistan and Bangladesh.

In particular the following initiatives should be undertaken without delay, notably with a view to preventing hazardous journeys by sea:

- a) identifying together with Tunisian, Egyptian and Libyan authorities ways of curtailing the supply of vessels from Tunisia and Egypt, while supporting those countries in managing migratory flows;
- b) making better use of networks of Liaison Officers in third countries in charge of fight against smuggling to foster more efficient information exchanges;
- c) the possibility to launch, where appropriate, initiatives in the field of law enforcement, including joint investigation teams with relevant third countries in order to prevent and prosecute THB and smuggling of migrants, should also be explored
- d) ensuring that EUROPOL is made aware swiftly of all information useful for the fight against smugglers gathered at the EU border by MS surveillance services and FRONTEX. This should include the stepping up of police cooperation initiatives in Europe in the field of smuggling, under the coordination of EUROPOL. In this context, FRONTEX and EUROPOL should finalize their agreement on the processing of personal data without delay;
- e) reinforcing relevant third countries' own capacities in borders and migration management , notably in Ethiopia, Niger, as well as in Libya, Egypt and Tunisia including by providing technical assistance;
- f) continuing dialogue and cooperation with the Turkish authorities, in view of dismantling the smugglers' networks, to promptly exchange information and reinforce joint activities with the EU Member States and to achieve the full implementation of the readmission agreement;
- g) taking steps to start a dialogue on migration, mobility and security with Egypt and Lebanon;
- h) developing new and reinforced Regional Development and Protection Programmes in North Africa and the Horn of Africa and fully implement the existing Regional Development and Protection Programme in the Middle East;
- i) implementing the EU Strategy for the Sahel, in order to contribute to security, stability and governance of the region.

- j) proposing a credible number of resettlement places, on a voluntary basis, in order to offer an alternative legal avenue and contribute to stabilize refugees communities in partnership with UNHCR. While taking into account the efforts carried out by Member States affected by migratory flows, all Member States should give their contribution to this objective in a fair and balanced manner, also with the support of the Asylum, Migration and Integration Fund (AMIF);
- k) in line with the June Council Conclusions Third Countries should be supported in building up their capacities to provide assistance to returnees;
- l) strengthening the use of joint EU actions on return, in particular under the coordination of Frontex, also through the voluntary participation of Member States to the current Pilot Project on return, and reinforcing Assisted Voluntary Return (AVR) programmes run by International Organizations and NGOs;
- m) implementing the planned information campaigns and consider new ones, on the risks of irregular migration and opportunities for legal access to Europe;
- n) persuading the authorities of North African countries to participate in the Seahorse Mediterranean Network.

Such initiatives, which should be undertaken in line with the Global Approach to Migration and Mobility also building on Mobility Partnerships, and which should continue to be accompanied by longer term initiatives addressing root causes of migratory flows, will help to **stabilize migrants communities, taking into account the needs of the vulnerable among them**, as well as to **dismantle criminal networks** profiting from the smuggling of migrants, and human trafficking, also in order to prevent hazardous journeys to the EU. These initiatives should also provide incentives to Third Countries to engage in a comprehensive manner and ensure their ownership. Further stronger incentives should be identified in all EU policies and tools to encourage closer and partnership-based cooperation of third countries on migration issues. Centres managed by UNHCR/IOM could be established in transit countries in order to implement the actions envisaged under h), j) and l) in a coherent manner and thereby offering concrete forms of solidarity and support to the Third Countries concerned. EASO's role in its external dimension could also be helpful in the implementation of several actions.

The European External Action Service, the Commission, as well as MS having consolidated bilateral relations with the above mentioned Third countries, will have to cooperate closely to achieve these objectives and make available their expertise in these fields.

Finally we should build on the positive experience of the Rabat Process, **which targets the Western African migratory routes, and** verify the possibility to extend such a model to other Regions of Africa, in particular East Africa, which is one of the main route of access to the EU, starting from the EU-Horn of Africa Migratory Route Initiative on Trafficking in Human Beings and Smuggling of migrants (Khartoum process). Also the EUROMED Migration Framework should be harnessed in these regards.

II. Reinforced management of external borders and FRONTEX

The enforcement of the surveillance of EU external borders is of vital interest to all MS. MS should cooperate closely with Frontex in order to consolidate the agency's presence in the Mediterranean.

In particular in the central Mediterranean, the new joint Operation Triton needs to be deployed without delay. While the operation is being deployed, full coordination with the emergency measures taken by Italy **will be ensured, in view of their prompt phasing out. The Frontex-coordinated joint operation, which has to be compliant with the Frontex mandate,** aims to confirm the EU commitment to the surveillance of the common external borders under full civilian control.

The above mentioned objective can be achieved through the following steps:

- based on risk analysis and the needs specified by the host Member State(s) and Frontex the operational area, the assets, resources and modules needed for the strengthened Frontex joint operation will be defined;

- additional necessary operational assets should be provided to the Agency by Member States.
- budgetary resources for the deployment of a FRONTEX coordinated operation should be made available by the Commission and the budgetary authority within the existing EU funds;

The strengthened FRONTEX operation could also incorporate operational tools which aim at the identification of migrants, the provision of information, and the screening of vulnerable cases or persons in need of medical attention in order to cater for their needs upon disembarkation. EASO could also support in these endeavours in accordance with its mandate.

The strengthening of the financial resources of FRONTEX in order to foster its operational capabilities, will have to be made sustainable starting from 2015 and beyond, within the normal budgetary cycle and the overall ceiling of the Multi-Annual Financial Framework, and will have to be based on the comprehensive risk analysis carried out by FRONTEX, encompassing all of the EU air, land and sea borders, in order to allow a flexible redeployment of assets to respond to emerging threats and challenges.

Member States could make use of the possibility provided for by the new Internal Security Fund-Borders to allocate resources under their national programmes to finance operating support in the area of border management¹.

¹ *i.e.* costs related to operations aimed at ensuring effective control of external borders, MS can use up to 40% of the amount allocated under the ISF-borders to their national programmes to finance operating support.

III. Action at Member States' level – Reception and fingerprinting

In the short term, the **EU needs to act to ensure the full and coherent implementation of the Common European Asylum System**. To this end all Member States must prioritize to invest and build up capacity to ensure a flexible national system for reception and asylum, capable to respond to sudden flows². Furthermore in order to address the large secondary movements within the EU which are currently taking place solutions should be found to counteract the modus operandi devised by smuggling networks which aims at circumventing the EURODAC system (fingerprinting and identification of migrants). At the same time, support should be given to Member States under pressure.

For this reason Member States, while ensuring the full and coherent implementation of the Common European Asylum System, should work in particular on systematic identification, registration and fingerprinting by, among others:

- (1) ensuring that fingerprints are taken on land, immediately upon apprehension in connection with irregular crossing of the borders, in full compliance with the EURODAC Regulation;
- (2) taking restrictive measures to prevent absconding in case migrants refuse fingerprinting, whilst respecting fundamental rights;
- (3) inform migrants in a timely manner of their rights and obligations and consequences of non-compliance with rules on identification.

² For example in Italy, an in-depth revision of the reception and asylum system is underway. The objective is to establish a three tier reception system, with new centers for the very first reception where migrants will be hosted for the time strictly necessary for transporting them to major hubs. The latter, around 20 in total, will constitute the backbone of the system where screening activities, including fingerprinting, and first evaluation of applications for asylum will be carried out. The third phase will then entail the final integration of refugees in the existing local reception system (SPRAR) which is being broadened to face the new challenges.

In parallel, in order to support Member States under pressure, all Member States should make full use of existing tools under the Dublin Regulation by applying the provisions on family reunification, including through the strengthening of family tracing systems, and through a greater use of the sovereignty clause, in line with the jurisprudence of CJEU. The possibility to use in a more systematic manner prioritized, accelerated, and border procedures in justified circumstances as provided by existing legislation should also be explored. EASO should stand ready to support Member States in this endeavour and continue to pursue its pilot project on Joint Processing. The use of relocation, on a voluntary basis, while taking into account the efforts already carried out by affected Member States, also contributes to support Member States under pressure

Follow Up

The operational priorities so defined should be implemented by all players involved without delay and under the coordination of the European Commission which will closely liaise with the European External Action Service and the Council. The Commission is invited to report, through an ad hoc scorecard focused on the three pillars, on the state of play of the implementation of the above mentioned actions to the Council as appropriate, and in particular when reporting on the Task Force Mediterranean. A first report should be envisaged at the December JHA Council.
