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From:	Presidency
To:	Delegations
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At the informal SCIFA meeting in Prague on 20–21 July, the Czech Presidency announced its intention to draft **a list of specific practical actions** to address the latest and anticipated developments in the field of migration and asylum. This plan is a response to the overall situational developments, namely the general increase in mixed migration flows into the EU combined with the consequences of Russia's war of aggression against Ukraine – particularly in terms of the further destabilisation of socio-economic conditions in countries in the EU neighbourhood and beyond, and the persistent risk of instrumentalisation of migration.

While fully acknowledging the need to have permanent structural responses to migratory challenges in place (and with a full commitment to continue the negotiations on the New Pact on Migration and Asylum to this end), the Presidency has assessed that the volatility of the current situation requires concrete, practically oriented measures, which would provide an immediate response to the most pressing issues and thus also prevent their further escalation.

As envisaged by the Presidency, the list of actions should help the EU and its Member States to react in an adequate and coordinated manner to the immediate and possible future challenges by outlining **a set of targeted, clearly defined steps** to tackle each phenomenon.

Drawing on the Member States' interventions (presented at the informal JHA Council in July, the informal SCIFA debate in July, and the July and September discussion at EMWP) and also further developments in the migratory situation, the Presidency would like to focus in detail on **four selected measures**, which, in its assessment, deserve particular attention. In addition to the discussion at SCIFA, the identified actions are or will be further elaborated upon in the framework of the EMWP and, where relevant, operationalised via the operational coordination mechanism for the external dimension of migration (MOCADEM).

- **Visa policy of the Western Balkan region, notably Serbia**

The Western Balkans (WB) is traditionally a key transit corridor for irregular migration towards the EU, especially from the Middle East, Asia and Africa. However, the region is not merely another link in the chain of transit countries to be crossed on the journey towards the EU. The WB region can also be **a starting point** for third-country nationals who are able to enter the region without a visa requirement.

The non-alignment of the visa policy of the WB region with the EU's visa policy has been most conspicuous in the case of **the Republic of Serbia**. In contrast with the EU acquis, Serbia enables visa-free regimes for an additional 23 countries. In 2022, the Serbian authorities lifted visa requirements for nationals of Egypt on a seasonal basis (from 30 July to 30 September), following similar moves by other governments in the region. In addition, the abolishment of visa requirements for workers from other countries, such as Bangladesh, is being prepared (Western Balkans Monthly EMLO Report No. 39).

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This is having a visible impact on the migratory and asylum situation in countries bordering the Western Balkan route. For example, Indian citizens have submitted record levels of asylum applications in Austria[1]. In Slovenia, the most represented nationalities detected during illegal crossings include Burundians, Indians and Bangladeshis. The increased pressure is also being felt in other EU countries, where irregular entries from this route, along with others, have resulted in the detection of a higher number of irregular migrants than during the 2015-2016 migration crisis.

In the Presidency's view, **intensified diplomatic outreach** is needed to address the lack of alignment of the WB region's visa regime in the short term. This should be carried **at the level of EUDEL** towards the relevant authorities of the respective countries, in particular in the form of **high-level outreach by the Commission towards Serbia**. **DELETED**

In the medium- to long-term perspective, the issue of **alignment of the WB region's visa policy** with the EU needs to be firmly framed within the overall context of the **accession process**. This also provides the EU with options for further steps in accordance with the EU acquis and the accession process, if the abovementioned outreach and diplomatic pressure are unsuccessful.

Due to the urgency of the situation, along with the overall dramatic increase of migration flows along the Western Balkan route, the issue will be addressed by ministers at the upcoming **JHA Council** on 14 October. It will also be included in the agenda of the **EU–Western Balkans Ministerial Forum on JHA** that will take place on 3–4 November 2022.

***Questions for the Member States**:*

Do you agree with the actions proposed by the Presidency to tackle the lack of alignment with the visa regime in the Western Balkans region?

What other specific actions can we take to immediately address the current situation in Serbia and the region? Are you considering any specific steps at national level?

[1] According to Eurostat data, in the first six months of 2022 Indians lodged 2 025 asylum applications in Austria, compared to 190 in the same period last year.

- **Substantially increasing returns (Article 25a of the Visa Code and beyond)**

Ineffective implementation and execution of return decisions remains one of the shortcomings of our common migration policy. Due to the interplay of various factors, **the overall number of returns remains well below the desirable level**. This erodes the legitimacy of the whole asylum and migration system and serves as a further incentive for irregular migration. Irregular migrants, aware of the lower probability of their return, are more likely to risk making a journey to the EU. Moreover, it exposes those staying illegally to precarious conditions and the risk of exploitation by various criminal networks. It also further supports the already highly profitable business of smuggling networks.

At the same time, some of the instruments which have been introduced with the aim of making our return policy more effective – namely Article 25a of the Visa Code – **have not yet been used to their full potential**. The Presidency is of the opinion that the delays in the process concerning the proposals on actions in line with the Article 25a undermine **the credibility of the mechanism** and the EU's efforts to address the non-cooperation by certain third countries. Countries where cooperation on readmission is insufficient, but which are not subject to decisions stipulated in Article 25a, must continue to be approached accordingly and clearly informed of the EU's position and the potential consequences of continuous insufficient levels of cooperation.

With the aim of streamlining the process under Article 25a, and also of closing the current gap between the year of the data analysed and the year of evaluation, the Presidency would like to revive the proposal tabled by the French Presidency at SCIFA in February 2022 (5983/22), which designed **a timeline for the annual process of evaluating the readmission cooperation of third countries**, including subsequent strengthened outreach towards the relevant countries and effective enforcement of decisions reached. Based on the French proposal and the SCIFA debate, the outline of the procedure could be as follows:

- January–December – the Commission and the EEAS continue with the outreach towards third countries that are identified as non-cooperative in the long term;

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- February – Member States provide the relevant data to the Commission (Frontex);
- April–May – the Commission publishes the annual report based on the collected data;
- May–June – IMEX Expulsion WP discusses the report and identifies the list of the main (non-)cooperative countries;
- June–July – EMWP debates the overall relations with the identified countries and, in parallel, the Commission and the EEAS strengthen outreach towards the identified third countries;
- August–September – the Commission tables proposals for Council Decisions and/or informs the Council of the result of the outreach at Coreper;
- September–October – the Council adopts the Commission's proposals.

This general framework would be developed further in the IMEX Expulsion WP, including the issue of how to bridge the current gap to ensure that the evaluation process deals with the data from the preceding year.

Besides the Article 25a procedure, the Presidency also hopes that the recent appointment of **the EU Return Coordinator** and establishment of **the High-Level Network on Return** will contribute to creating a whole-of-Commission and whole-of-EU approach towards returns, embedding them firmly in the context of overall cooperation with third countries.

***Questions for the Member States**:*

Do you agree that, as an outcome of the second Article 25a exercise, the proposals for visa sanctions against the countries which do not sufficiently cooperate on readmission should be tabled as soon as possible?

Do you share the view that, for the sake of predictability, credibility and transparency, a process timeline needs to be defined to make the assessment process more effective and up to date?

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- **Fighting instrumentalisation of migration**

Given the persistent risk of instrumentalisation of migration as a part of the geopolitical efforts by some third countries aimed against the EU, tackling this phenomenon has been identified by the Czech Presidency as one of the key priorities in the migration and asylum field. Due to its complex nature, discussions dedicated to this issue are already ongoing in different forums.

The Commission's **proposal for a Regulation addressing situations of instrumentalisation in the field of migration and asylum** is being discussed in the Asylum WP, and the Presidency aims to achieve as much progress as possible on the file. The work on the Commission's proposal for a Regulation on measures against transport operators that facilitate or engage in trafficking in persons or smuggling of migrants in relation to illegal entry into the territory of the EU should also continue in WP RELEX with a view to achieving as much progress as possible.

The issue of instrumentalisation was also touched upon at the EMWP meeting on 6 September under the discussion on the Eastern Migration route. At the meeting, the delegations welcomed the Presidency's proposal to formalise **a toolbox of specific actions and measures** that could be utilised to effectively address the risks.

The content of the toolbox is now being developed in the **MOCADEM framework**, where the Presidency submitted its draft **action file on instrumentalisation** (WK 12722/22 INIT) for the first discussion on 30 September. The aim of the file is, through a synthesis of the available information and policy proposals, to both **prevent** further cases of instrumentalisation and **ensure preparedness and adequate joint reaction** to such scenarios, regardless of the migratory route on which they could occur.

If the risk of instrumentalisation increases substantially or the Member States are confronted directly with instrumentalisation at their external borders, an evaluation of the situation would be carried out by the IPCR and Coreper, which would also approve the activation of the toolbox and select the appropriate measures to be taken.

***Question for the Member States**:*

Do you agree with the main elements of the draft action fiche and the toolbox activation process?

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- **Early warning, forecasting and monitoring of migratory trends**

Constant monitoring of the migratory situation, complemented by regular information sharing, is an essential pre-condition for ensuring the EU's preparedness for a potential upsurge in movements towards the EU. Instead of establishing new platforms to this end, the Presidency calls for the maximum utilisation of the two existing channels – namely **the Blueprint Network** and **the ISAA reports** – with a view to further enhancing their function as early-warning and preparedness mechanisms.

The potential and effectiveness of the Blueprint Network has been clearly confirmed since its establishment, when the EU has had to grapple with unprecedented challenges and unexpected developments. Based on this experience, the Presidency believes that the monitoring of newly emerging trends and the related early-warning activities of the Network should be **continued and further expanded**. The recent monitoring and updates provided on the so-called 'Caravan of Light' serve as a good example of the Network's activity in this area.

As part of this exercise, the Network should also intensify its focus on monitoring and identification of **new transfer hubs** (used for both air and land routes) and connecting **transport means** that are used to facilitate higher volumes of irregular movements. In the current context, this means primarily the transit routes enabled by the Belarusian and Russian regimes, transit routes through Turkey and the transit route enabled by Serbia's liberal visa policy.

In addition to reacting to new and possible future trends, the Blueprint Network could also biannually schedule in the agenda of its plenary meetings the **forecast** of developments on the individual routes.

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The quality and comprehensiveness of the information provided through the Blueprint Network and the ISAA reports largely derives from the **monitoring of the EU agencies** and the **timely provision of relevant data and information by the Member States**. Their input and active participation is therefore essential to ensure the availability of the most accurate and complete picture of the situation on the ground.

If needed, the results of the early-warning and monitoring activities would then be further examined at the relevant Council levels (SCIFA, EMWP, MOCADEM or other suitable forums) to provide a suitable follow-up.

***Questions for the Member States**:*

Do you agree with Presidency's proposals regarding monitoring, early warning and the proposed utilisation of the existing monitoring mechanisms? Will you be in a position to participate actively and deliver further input to the Network?

Are there other activities that could be developed under the current reporting framework?

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