



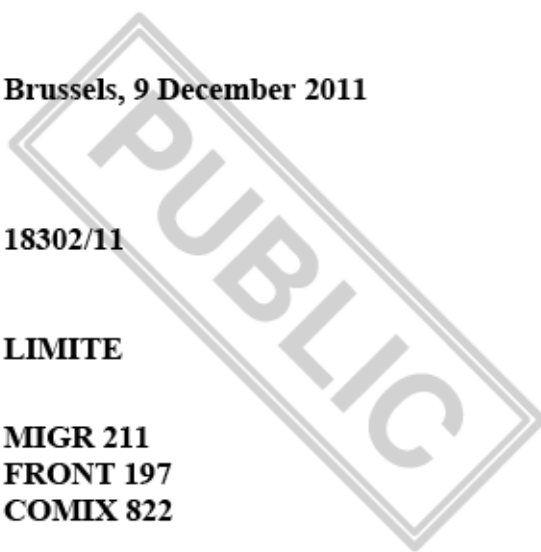
**COUNCIL OF
THE EUROPEAN UNION**

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NOTE

from: Presidency

to: Permanent Representatives Committee /
Council (Justice and Home Affairs on 13 - 14 December 2011)/
Mixed Committee (EU-Iceland/Norway/Switzerland/Liechtenstein)

Subject: EU response to increased migration pressures

Delegations will find attached a note from the Presidency on the above subject.

I. INTRODUCTION

The JHA Council discussed the latest trends in illegal immigration on 27th September and on 28th October 2011 and requested the preparation of a set of proposals for possible common actions in order to face the new challenges in this area. The Presidency presents the following report in order to further guide the discussion and suggest actions that could be taken in order to respond to the challenges posed by illegal immigration in all its dimensions. The document is based on the results of debates at the Council meetings, SCIFA and other working parties focused on increased migratory pressure along the Southern and South-Eastern borders. It draws equally on the suggestions made by delegations in the course of the discussions and debates held to date. The paper therefore reflects input of a range of actors and is intended as a contribution to the further development of the EU's response to illegal immigration. The future proposals should constitute a set of measures to be applied at all EU borders, including its the Southern, Eastern and South-Eastern parts and at the territory of respective Member States.

Following the increasing pressure of mixed migratory flows along the Southern and South-Eastern borders of the EU over the last months, both the European Council at its meetings on 24-25 March 2011 and 23-24 June 2011 and the Council at its meetings on 11-12 April 2011 and 9-10 June 2011 adopted the Conclusions addressing illegal immigration, and the Commission has adopted Communications on 4 May and 24 May 2011 in order to put in place further efforts and additional measures to tackle this phenomenon. These documents all address the causes and effects of illegal immigration as well as measures and best practices undertaken by the EU and its Member States. As recent discussions proved, there is a need to improve the effectiveness of implementation of all these measures as well as to ensure better coordination between various kinds of actions.

The challenges posed by the recent migratory situation clearly undermine confidence in the ability of the EU and its Member States to manage migration flows across the external borders and across the EU. The internal security concerns are increasing and need to receive an effective response. But it should be emphasized that this response cannot be to the detriment to the movement of people within the Schengen area. Mobility and security must go hand in hand. The EU and its Member States must focus on precisely targeted measures to combat illegal immigration in its different forms, including abuses of the possibilities for legal stay under the legislation related to migration, visas and asylum.

This is a common challenge for the EU and its Member States, to establish a strategic and comprehensive approach to address illegal immigration and illegal stay.

The debates in the Council in the second semester of 2011 caused by further increase of pressure of mixed migratory flows, in particular along the South-Eastern borders of the EU, and the related secondary movements, proved that the situation across the EU differs given the local specificities. The response of the EU should therefore be tailor-made to the different challenges. But the objectives and the means at disposal of the EU and the Member States remain the same.

II. SCOPE OF THE CHALLENGE

Illegal immigration is a multidimensional phenomenon that demands a comprehensive response. At present the following aspects of illegal migration are recognized as the most important:

- Illegal crossing of the EU's external borders

The situation in the two regions is the subject of the greatest concerns: the Greek-Turkish land border and the Southern-Mediterranean, both in terms of the overall number of irregular migrants and of their impact on secondary illegal immigration movements. At the same time, efforts have to be maintained in other areas where success has been achieved in keeping the migratory pressure under control.

- Abuse of legal migration channels

The overstayers, i.e. migrants who have legally entered the EU with or without visa but then stayed beyond the allowed duration of their permitted stay, represent the vast majority of irregular migrants in the EU.

Abuses of asylum procedures remain an important problem in several Members States and make a migratory pressure more difficult to manage.

- Smuggling and trafficking

The persistent activity of smuggling and trafficking networks is a significant factor. Forced labour and the sexual exploitation of migrants are reasons for the involvement of organized crime and have an impact on migratory situation in several Member States.

III. PRIORITIES FOR FUTURE MEASURES

It has been widely recognized that the EU needs durable solutions instead of short-term actions and that a number of tools that are already at the disposal of the Union and the Member States constitute an adequate framework to cope with illegal immigration. The emphasis should be placed on a more effective implementation of the already existing processes and measures agreed at EU level in the last years as well as planned ones.

In light of the discussion held in the Council, the Presidency proposes that further consideration is given to the following elements for the purpose of developing the EU's response to increased migratory pressures:

1. Cooperation with third countries of transit and origin

- a. The dialogues on migration, mobility and security with the Southern Mediterranean countries. Launched on the basis of the Conclusions of the European Council of 24 June 2011, should be carried forward as a matter of urgency, within the framework of the Global Approach to Migration and Mobility. Those already launched with Tunisia and Morocco should be followed by the establishment of Mobility Partnerships. Efforts will have to be continued to ensure that similar dialogues could be launched, as soon as the conditions allow with Egypt and Libya. It is vital to ensure that both the dialogue and the cooperation programmes are thoroughly discussed, negotiated and agreed with the third countries in question in order to ensure ownership, which will result in more fruitful cooperation.

Attention will also need to be given to the further development of cooperation with the Eastern third countries on illegal immigration issues in the framework of relevant cooperation processes, inter alia the Eastern Partnership and the Prague Process, based on the progress already achieved.

- b. The cooperation and assistance to build effective border management systems in the third countries is crucial to enhance their capacity to manage the migration flows. Concluding pending negotiations on readmission agreements, and, as appropriate, starting such negotiations with other relevant third countries, should be treated as a matter of utmost priority.
- c. It is also considered essential to identify ways of addressing the challenges in relation to **Sub-Saharan Countries**, as key countries of origin of illegal immigration to the EU, and to ensure the effective implementation by these countries of the existing readmission obligations in particular with regard to the EU–ACP Cotonou Agreement.
- d. Appropriate solutions also need to be found regarding the increased pressure of illegal immigration of the third country nationals transiting through or originating from the Western Balkan countries. The monitoring of migratory situation performed by FRONTEX is of particular importance to this end.
- e. The launching of a dialogue on visa, migration, mobility and security-related elements with **Turkey** is also a matter of urgency. Concluding and implementing of the readmission agreement should be an integral part of such a dialogue. It is important to ensure the commitment of Turkish relevant authorities to the fight against illegal immigration and to strengthening border control. Other ways to achieve progress with Turkey, such as offering clear incentives to the Turkish authorities in the area of visas within the framework of the possibilities offered by the Visa Code, should be directly implemented.

- f. A comprehensive approach to the challenge of illegal immigration will also have to include a focus on the activities of organised criminal groups in facilitating abuse of the provisions of movement of people and, most importantly, smuggling of and trafficking in human beings. To this respect, a link should be created between the main outputs of the Global Approach to Migration and Mobility related dialogues with third countries and the Operational Action Plans under the **EU Policy Cycle being currently developed by COSI**, so as to exploit at best all possible synergies, in particular as far as the role of the EU Agencies is concerned.

2. Concrete solidarity between Member States

- a. Genuine and practical intra-EU solidarity in the field of asylum, to safeguard the credibility and integrity of national asylum systems, needs to be sought. It is obvious that the correct implementation of the existing *acquis* remains the cornerstone of efficient cooperation in this area.
- b. Support to those Member States most exposed to mixed migratory flows should be ensured, notably by providing technical, administrative and financial assistance for capacity building and exchange of know-how and best practice. This requires genuine involvement of the Member States, the Commission and EASO as well as further reflection on the scope of such an assistance in a dialogue with the States concerned.
- c. Funds and expertise should be channelled to address the identified shortcomings at national level and to implement projects, notably in order to increase reception capacity and reinforce capacity in the field of return.

3. Enhanced and coordinated operational activities

- a. FRONTEX, in cooperation with the Member States and the Commission, should continue to provide support to the relevant Member States according to the needs-assessment provided, in particular at the land border between Greece and Turkey. Flexibility of such activities and their best possible coordination, according to the needs and changing situation, should be ensured.
- b. It is also necessary to ensure proper management of the resources granted to FRONTEX to let it make full use of its recently expanded mandate and to strengthen its cooperation with third countries, in particular with Turkey, Tunisia, Libya and the Western Balkan countries.
- c. Measures have to be taken to confront the secondary illegal immigration movements that affect other countries at the external border of the EU. In particular, exchange of information in this regard in the Council with a view to providing reliable analysis of the situation should be further developed. Inter-agency cooperation should be enhanced, notably between FRONTEX, EUROPOL and EASO, in order to address cross border crimes, smuggling and trafficking in human beings.
- d. Rendering EASO full operational is needed in order to support the Member States in the area of international protection and related issues concerning fight against illegal immigration and in particular enhance intra-EU solidarity.

- e. Progress on border management in Greece resulting from the Schengen evaluation process is essential and should continue to be regularly and duly monitored. The border action plan recently adopted by Greece is noted as a first step in the right direction.
- f. The Member States should give a high priority to the implementation of the return instruments, both under the existing EU acquis and in bilateral arrangements. This is indispensable to achieve a high level of efficiency in tackling illegal immigration.

4. Mobilisation of appropriate financial means

- a. The results of a diagnosis of the current situation should be taken into account while working on the New Financial Framework for 2014-2020. The efficiency of the financial support can only be achieved through a proper coordination and overall monitoring in place.
- b. Ways of achieving better absorption and effective implementation of necessary actions under the EU financial instruments by the Member States, especially those most affected by mixed migration flows. Technical support should be provided to those Member States facing difficulties in order to increase their administrative capacity.

5. New developments

- a. Further roll-out of the VIS and the forthcoming Smart Borders package will be the valuable steps in enhancing Member States capacity to manage mobility of third country nationals, while facilitating the processing of visa applications for bona fide travelers.

- b. Additional initiatives, such as the recent EUROSUR proposal, aim to make surveillance along the Southern flanks of the EU more effective. The EUROSUR proposal should be adopted swiftly with a view to making the system operational by 2013. Encouraging neighbouring countries to participate in the system is essential.

IV – CONCLUSION

The Danish Presidency will take forward work in this area with a view to establishing a road map to ensure coherent EU response to the increased migration pressures.

The Council is invited to take note of this report from the Presidency.
