

## **Presidency report - Managing migration flows**

### ***State of play - implementing solutions and remaining gaps***

In order to tackle the unprecedented flows of refugees in 2015, the EU has set out a comprehensive strategy and is fully engaged in solving the most pressing issues. On the basis of the strategic orientations set out by the European Council and by the Council, the Presidency has assigned itself four priorities:

- (a) Providing assistance to those in need: humanitarian situation, civil protection, etc.
- (b) Stemming the migration flows: cooperating with third countries, prevent/deter, actions against smugglers, targeted communication, etc.
- (c) Strengthening the capacity at entry: hotspots, entry points, registration, security, border cooperation, etc.
- (d) Managing the flows within internal borders: processing including screening, security checks, reception, asylum, relocation, return, etc.

The Presidency has held numerous meetings and consultations, conducted field visits and activated the Integrated Political Crisis Response (IPCR) for the first time ever (cf. annex). Member States, the Commission, the EEAS and relevant EU agencies have been fully mobilised to support the Council in taking decisions on actions to meet the needs of arriving refugees and migrants, including the 1.2 million asylum seekers that have arrived since January 2015 (+ 90% than in 2014) in the EU. Implementation has been advancing rapidly in some areas, but significant gaps still remain.

### ***Achievements and shortcomings***

In the area of **legal migration**, the Council confirmed on 4 December 2015 the agreement reached with the European Parliament on a proposal for a directive on the conditions of entry and residence of third-country nationals for the purposes of research, studies, pupil exchange, remunerated and unremunerated training, voluntary service and au pairing.

**Resettlement** of more than 22 000 persons in clear need of international protection, agreed in July 2015, is slowly progressing. Around 600 refugees have been resettled to Member States so far.

The implementation of the decisions on **relocation** remains unsatisfactory, with only 184 persons (as of 16 December 2015) relocated out of a total of 160 000. Problems remain at both Member States of relocation, as well as at frontline Member States levels. Additionally, applicants identified for relocation appear



reluctant to be relocated to most Member States. To help identifying bottlenecks and agree on common solutions, the Commission organised on 16 December 2015 an informal Forum on relocation and resettlement attended by all Member States, which could lead to a strengthening of the process. In addition, by deploying National Liaison Officers at hotspots, both the interests of the Member States interviewing applicants and of the applicants receiving directly information on the Member State of relocation may be met. Reception capacity, for those who wish to be relocated, would need to be increased.

Of major importance in this context is the **functioning of the hotspots**. Two of the planned 11 hotspots are currently operational in frontline Member States. It is crucial that efforts continue to set up and operationalize the remaining hotspots in order to ensure a consistent management of the migration flows. Achieving this would enable a channelling of refugees towards the relocation process and ensure the return of those who are not in need of international protection. The model of flexible national systems for reception centers assuring that migrants do not leave when they are being processed, should be favoured.

Some progress has been made on the proposals presented by the Commission on a **common EU list of safe countries of origin** and on a **Crisis relocation mechanism**, which are being examined at working party level. It is fair to say however that parts of the proposals are still opposed by some Member States, for different reasons.

A series of initiatives have been identified to **stem the flows of migrants**, both to redress the situation in the refugee camps in neighbouring countries and to support the protection of refugees living outside the camps in Turkey, thereby decreasing the push factor.

An important element is the **EU-Turkey Statement of 29 November** and the Joint Action Plan setting out numerous actions to address the crisis. In December, the number of registered arrivals by sea from Turkey to Greece remains at an average level of approximately 4.000 persons per day. This is a slight reduction if compared to the high numbers of November (5 000-6 000 per day). This decrease may, however, also be attributed to other factors.

Strengthening **identification, registration and fingerprinting** of all third country nationals entering the Schengen area irregularly, are crucial preconditions for efficient border control and security checks. This remains an issue, both in terms of human and technical resources. However, progress has been noted in relation to the situation in Greece with the additional provision of Eurodac devices and the deployment of national personnel to work in teams with guest officers provided by Member States to Frontex. Furthermore, Greece has activated the Union Civil Protection Mechanism. The deployment of Rapid Border Intervention Teams (RABITs) to reinforce border controls in the Aegean Islands has been activated on 12 December 2015. At the northern border, Frontex is deploying guest officers to support border management procedures, thereby alleviating the tensions. At the Turkish-Bulgarian border, Frontex is also stepping up its presence.

It is crucial that all Member States ensure systematic **security checks** at external borders with relevant existing databases, at least the Schengen Information System (SIS II), Europol Information System (EIS), national police systems, Visa Information System (VIS), Interpol's Stolen and Lost Travel Documents (SLTD) and other complementary instruments such as PRÜM and FADO as necessary. To facilitate this, a one-stop shop unifying access to the various databases should be envisaged for the purposes of border controls and security checks. The use of the SIS system should be reinforced towards a coherent application of different kinds of alerts in relation to security. To further enhance security aspects, Member States should deploy National Liaison Officers, working alongside national authorities, Frontex and Europol, at hotspot locations.

Along the Western Balkans route, several states have introduced filters, halting on the basis of nationality those likely to be economic migrants. Clarity is needed on the nationalities excluded and the legality of the actions taken, which should be in line with the European *acquis*. With regard to **the reception capacity**, the commitment to increase capacity to provide shelter for more than 24 hours in the countries along the route is not yet met.

The **calls for experts** by Frontex and EASO are still under-pledged. Member States, in particular those which are under less migratory pressure, are encouraged to increase contributions in order to strengthen the operations at the Union's external borders.

Work on the targeted **common information strategy** conducted by the Commission, as per 9 November JHA Council conclusions, has now started. A Task Force has been established and some projects are foreseen to start in January. Although often neglected, this area of activity is of crucial and should receive regular attention at Ministerial level.

Concerning the pledges to WFP, UNHCR and other humanitarian agencies made in response to the agreement reached at the dinner of Heads of State or Government of 23 September, Member States have further upped their contributions so that the pledges made since that date are now in excess of the target figure of €500 million (totalling more than €520 million as of today).

### ***Immediate action needed***

On 15 December, the Commission presented a series of proposals to manage the external borders and protect the Schengen area. These proposals will be dealt with by the legislative authority, with possible impact in the medium to long term. In view of the clear deficiencies identified above and of the seriousness of the situation, the Presidency therefore calls for immediate action in the following areas.

#### **External border controls**

The Schengen area is confronted with deficiencies relating to external border control, leading to serious threats to public policy or internal security. This has led to several unannounced evaluation visits performed by the Commission over the last weeks. When presented in the Council on 4 December, the Presidency's orientations to enhance consultations between Member States before the temporary reintroduction of internal border controls, for better securing external borders, for increasing checks

regarding illegal immigration inside the Schengen area and for addressing serious deficiencies in external border controls have been broadly supported by Member States.

In this context and in order to improve coordination between Member States of national decision taking with regard to the reintroduction of temporary internal border controls, the possibility that the Commission would ensure recommendations on the basis of Article 26 of the Schengen Border Code has been discussed in the Council (as well as to anticipate changes in migration routes, to consult with neighbouring countries, etc). This would make it possible to define the conditions for return to the normal functioning of the Schengen area.

Several Member States have reintroduced temporarily internal border controls pursuant to articles 23-25 of the Schengen Borders Code. Under these provisions, a Member State may not implement such controls for more than a total period of six months.

A prolongation of this situation would require the adoption by the Council, upon a proposal from the Commission, of a recommendation in accordance with Article 26 of the Schengen Borders Code. Such a recommendation may be adopted in exceptional circumstances to address a situation where a Schengen evaluation has identified persistent serious deficiencies relating to external border controls and the measures referred to in Article 19a of the Schengen Borders Code are not effective. Where in such cases the overall functioning of the area without internal border control is put at risk, and insofar as the exceptional circumstances constitute a serious threat to public policy or internal security within the area without internal border control or within parts thereof, the period for the reintroduction of internal border control may be extended up to a total maximum of two years.

On this basis, the Presidency remains convinced that action should now be taken upon the findings of the Commission's 8th report on the functioning of the Schengen area and that an adequate proposal should be presented to the Council pursuant to Article 26 of the Schengen Borders Code for a Council recommendation that one or more Member States decide to reintroduce border control at all or at specific parts of their internal borders. The Presidency also considered that, at the same time, all possible measures should be taken aimed at strengthening the normal functioning of the Schengen area, in particular by reinforcing the control of external borders.

## **Relocation**

As part of the package of 15 December, the Commission has responded to the latest Swedish request, formally requesting the suspension of its obligations under Council decisions (EU) 2015/1523 and (EU) 2015/1601 on relocation. The proposal submitted to the Council provides for a temporary suspension of the obligations of Sweden under the relocation mechanism for a period of one year.

The current situation calls for further action. In the light of the first request submitted by Sweden, serious consideration should be given to the possibility for other Member States to benefit from already allocated, but under-used relocation possibilities.

Processing centres should be organised, with EU support, to perform functions similar to that of hotspots, adding a detention component if need be. Migrants should not necessarily have to apply for asylum in Greece or Italy, but could do so in the Member State to which they are being relocated. Transferability of procedures initiated in one Member State and of Eurodac data should be ensured – so that the potential refugee does not have to start the procedures (fingerprinting, asylum application, etc.) all over again when arriving in his/her country of relocation.

## **Return**

It has been said many times that a coherent, credible and effective policy with regard to the return of illegally staying third-country nationals is an essential part of a comprehensive EU migration policy. In the Commission's proposals of 15 December 2015, a dedicated return office in Frontex is proposed in order to strengthen cooperation with Member States in the area of return.

Preparations are already ongoing. The new Frontex organisational chart was agreed by the Management Board recently and it will enter into force from 1 January. A new "Return Support Unit" was created, which will be fully operational in a few months. The Presidency recommends that Member States reinforce efforts in the area of return and enhance cooperation with other Member States and with Frontex.

## **ANNEX**

### **Key points on the activation of the IPCR for the response to the refugee and migration crisis**

1. Over the past 6 months, the Presidency has significantly stepped up efforts to develop a coherent response to the current migration crisis.
2. Considering the magnitude of the refugee and migration crisis, and the difficulty to have a clear and common picture of the situation among Member States and relevant EU institutions and agencies, the EU Presidency decided to activate the EU Integrated Political Crisis Response arrangements in information-sharing mode on 30 October 2015.
3. The work has been based on the strategic orientations set out by the European Council.
4. The first objective was that of establishing a level-playing field in terms of information on the overall situation. Working closely with the General Secretariat of the Council, the Commission, and the European External Action Service (EEAS), the Presidency has first defined the political and strategic guidance for the preparation of Integrated Situational Awareness and Analysis (ISAA) reports.
5. This guidance, shared with all Member States via the IPCR web platform, provided in particular the main areas of interest for the collection of information and the timeframe.
6. The Commission and the EEAS have delivered. This was the first ever activation of the IPCR and the first time we've received an integrated report covering the main sectors of the crisis within a single document shared at 28.
7. The next iterations of the ISAA reports, delivered on a weekly basis, kept improving, and so did the shared knowledge of the situation among all member states.
8. The second step then taken by the Presidency was to move from information-sharing to better supporting the Council decision-making process. That is why the Presidency has upgraded the activation of the IPCR to full mode on 9 November 2015. This decision was supported by the 9 November extraordinary Justice and Home Affairs Council in its conclusions.
9. From that moment on, the Presidency, associating the incoming NL Presidency, has made use of the Presidency roundtable (an informal setting entirely part of the IPCR toolbox) to better understand the key issues and shortcomings, as well as the possible options to be proposed to COREPER and Council.
10. The Presidency has organised 3 IPCR roundtable meetings at Ambassador level, and 10 in a working-level format chaired by a JHA counsellor.
11. Topics addressed include the humanitarian situation, hotspots, security checks, smuggling and trafficking of migrants, internal borders, return and readmission. Expertise relevant to these topics was gathered through the invitation of member states or other guests - such as UNHCR, IOM, FRONTEX, EUROPOL - to parts of the meetings.
12. Roundtable meetings were organised on a regular basis focussing each time on a specific topic, but additional meetings were also convened on the basis of emerging needs.

13. The implementation of the actions agreed at the 29 November EU-Turkey Summit is also supported via the IPCR and was the topic of a roundtable meeting at Ambassador level with the 28 EU member states and Turkey on 15 December. This meeting was immediately followed by a working level roundtable that allowed to launch, together with Turkey, a joint data gathering exercise on migration flows and support to refugees in Turkey.
  14. The roundtables have become the core of the mechanism, and are organised on the Presidency's initiative, with support from the General Secretariat of the Council.
  15. In response to a request from member states, the dates and topics of the roundtable meetings are now consistently shared on the IPCR web platform, and the reporting through COREPER is becoming a regular feature. This report can also be seen in light of this effort.
  16. The process now needs to start moving from the early phases of the activation focused on sharing information to a more structured and operational approach, producing solutions and tracking their implementation, to better inform decision-making at 28.
  17. Strong buy-in from key stakeholders has made this an effective tool in coherent agenda-setting and coordinated fact-finding, two elements that have sometimes been found lacking during other crises.
  18. In only a month since the full activation of the IPCR these efforts have begun to yield results, thanks to the increased coordination between the Council, the Commission, the External Action Service and the relevant agencies.
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