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OUTCOME OF PROCEEDINGS

From: General Secretariat of the Council
On: 13 and 14 November 2014
To: Strategic Committee on Immigration, Frontiers and Asylum / Mixed
Committee (UE-Iceland/Liechtenstein/Norway/Switzerland)
Subject: Summary of discussions

1. Migratory pressures - Trends and Outlook

- general overview: presentation by Frontex and EASO
- migratory challenges from North Africa - operational responses: report by Frontex

Frontex and EASO gave an overview of recent developments regarding migratory pressures, followed by a general exchange of views. Frontex also gave a specific presentation regarding North Africa.

2. Managing migratory flows - follow-up of Council Conclusions of 10 October

(a) Task-force Mediterranean: overview by the Commission

(b) Operational actions on border surveillance: presentation by Frontex

The Commission and the EEAS, as well as the European agencies (FRONTEX and EASO), informed the Committee on the latest developments concerning the implementation of the operational actions identified by the TFM. It was recalled that the Commission would present an ad hoc scorecard on the state of play of the implementation of the actions identified in the Council Conclusions of 10 October, when reporting on the TFM at the December JHA Council.

(c) Fingerprinting: best practices for upholding the obligations in the Eurodac regulation

The Commission presented its non-paper on the above-mentioned issue. Given its importance - as suggested by some delegations - it was agreed to invite the Asylum Working Party to pursue the examination of this non-paper.

(d) Joint/Supported processing of asylum applications - state of play by EASO

EASO provided some information on the state of play of the above-mentioned item. Delegations welcomed this initiative and underlined its importance. EASO was invited to keep the Committee regularly informed on further developments of the joint/supported processing of asylum applications.

3. Resettlement and relocation forum - 25 November

- presentation of the main issues by the Commission

The Commission presented detailed information on the preparation of the resettlement and relocation forum. The Chair invited the Commission to report on the results of the Forum at the Committee's next meeting.

4. Smart Borders Package

- information by the Presidency and the Commission on next steps

The Commission informed delegations about the implementation of the proof of concept for the Smart Borders Package, comprising a Study and a Pilot Project, following the approach agreed in Coreper in February 2014. The Study had been presented to the European Parliament and the Council, and work was on its way with a view to inviting Coreper to give guidelines for further steps. Following these proceedings, the Commission would prepare the terms of reference for the envisaged Pilot Project. In line with the February 2014 approach, this should not stop negotiations on other issues such as access for law enforcement purposes or the architecture of the systems. The Smart Borders Package would remain a political priority for the Commission, which was now reflecting whether it would be appropriate to formally revise or replace its proposals.

eu-LISA stated that the agency was preparing to perform the Pilot Project with Member States and should be able to keep to the envisaged time schedule provided that the terms of reference for the project would be determined by the end of 2014.

The Fundamental Rights Agency underlined the importance of taking into account fundamental rights aspects from the start in the process.

Delegations were generally inclined to follow the approach of the Commission to go ahead with the pilot project as planned and to keep as much as possible the time schedule as endorsed by Coreper last February, although some delegations considered that the envisaged pilot could be more complete, even if that would imply a delay or additional costs. It was generally acknowledged that, for the success of the pilot project, it was important to cooperate closely with the European Parliament. The Presidency concluded that work should continue as planned in the Frontiers Working Party on 19 November 2014 with a view to asking Coreper to provide political guidelines on further steps by December 2014.

5. Follow-up of Council conclusions on foreign fighters

- border control aspects: state of play by the Commission

The Presidency indicated that the follow-up to the outcome of the October 2014 JHA Council was on the agenda for the December 2014 JHA Council, and underlined it was committed to making progress on the matter, referring to ongoing activities at Working Part for Schengen Matters (SIS/SIRENE) and the Frontiers Working Party, as well as activities in the SIS/VIS Committee and in an expert group organised by the Commission. The Presidency invited delegations to coordinate their positions in the different fora.

The Commission had examined with experts the issue of checking travel documents and the question of non-systematic checks of persons enjoying the right to free movement and planned to prepare a non-paper for the purpose of discussions on these matters in the Frontiers Working Party on 19-20 November 2014. The Commission also indicated that, following proceedings in the SIS/VIS Committee, the SIS/SIRENE manual would be amended with effect from 1 February 2015 to improve information exchange regarding foreign fighters, and informed on developments regarding the use of SIS in relation to the invalidation of travel documents.

6. Pilot project on return

- state of play by the EEAS and the Commission

In the follow-up to the Council Conclusions of 5 June 2014 on Return Policy, the Committee had a third discussion on the pilot initiative on return. Previous discussions took place on 5/6 May and 19 September 2014. The Commission informed the Committee about the state of play with regard to the leverage potentially available to the EU and its Member States for encouraging any of the four third countries under consideration for possible selection (Bangladesh, Ghana, Nigeria and Pakistan), in line with the more for more principle, to improve the return rate of irregular migrants from the EU Member States to these countries. The Commission advised selecting not more than two countries, considering overall relevance, suitability, and feasibility of making progress, during this initial pilot phase.

On the basis of the outcome of discussions in the Asia-Oceania Working Group (COASI) and the Africa Working Group (COAFR), Bangladesh, Nigeria and Pakistan were considered as potentially suitable countries with which to take work forward on the return pilot, while it was recommended not to include Ghana at this stage with the understanding that the Africa Working Group would review relations with Ghana and its suitability for the pilot in six months' time.

Against that background, the Committee invited the Commission to commence preparations, with the involvement of the EEAS, the EU delegations and interested Member States, for approaching Pakistan, and additionally Bangladesh and Nigeria, on the basis of a prioritisation, with a view to a coordinated implementation of the initiative by the EU and its Member States. Furthermore, the Commission was invited to keep the Committee informed about future developments with regard to the pilot initiative on return.

The Presidency will inform the Permanent Representatives Committee of the follow-up given to the Council Conclusions of 5 June 2014.

7. Any Other Business

- **EU action on migratory pressure: state of play by the Presidency on the updating procedure**

The Presidency informed delegations on the state of play regarding the biannual updating of the EU Action on migratory pressures. The Presidency indicated that only few delegations had given input so far, and underlined that if the tool were to be efficient, more concerted efforts were needed. The Presidency invited all stakeholders to give their comments by 1 December 2014 with a view to presenting the final updated EU Action to the December 2014 SCIFA/Mixed Committee for endorsement.

- **European Ministerial Conference on Integration (Milan, 5-6 November 2014)**
The Outcome of Proceedings of the above meeting was circulated to delegations.
- **EU Conference on Fundamental Rights and Migration (Rome, 10-11 November 2014)**
A representative from FRA reported on the results of the above conference.
- **Pending cases and developments in the case law of the Court of Justice/ European Court of Human rights**
The Council Legal Service gave information to delegations on the following cases:
 - ECHR, 4 November 2014, *Tarakhel v Switzerland*, Application 29217/12
 - ECJ, 5 November 2014, *Mukarubega*, Case C-166/13