

Brussels, 17 October 2024
(OR. en)

14204/24

LIMITE

**JAI 1520
MIGR 368
RELEX 1295
COSI 171
ENFOPOL 407
IXIM 219
COMIX 431**

NOTE

From:	Presidency
To:	Integration, Migration and Expulsion (IMEX Expulsion) working party
Subject:	Presidency note on the use of commercial means of transport to facilitate irregular migration to the EU

In 2023 the Commission adopted a Toolbox addressing the use of commercial means of transport to facilitate irregular migration to the EU¹, outlining fifteen actions concerning situational awareness and early warning, the EU legal framework and engagement with partner countries and transport operators (please see the technical annex from the Commissions services in annex).

At the forthcoming Integration, Migration and Expulsion (IMEX Expulsion) working party meeting on 24 October 2024 the Presidency would like to invite delegations to discuss the issue of the use of commercial means of transport to facilitate irregular migration to the EU, focusing both on the situational awareness and actions to be taken to address this situation. The discussion will focus specifically on air-transport.

¹ https://home-affairs.ec.europa.eu/toolbox-addressing-use-commercial-means-transport-facilitate-irregular-migration-eu_en

The goal of this discussion would be to learn about Member States experiences with irregular migration by air and understand to what extent this is an issue of concern for Member States.

The delegates will be invited to answer the following questions:

On situational awareness:

- Have you observed instances of irregular movements towards the EU /Schengen area via air routes, including through facilitation of irregular migration between third countries in order to reach the EU irregularly?
- Can you identify recurring migratory trends (routes, air transit hubs, airlines) in third countries that are conducive to facilitating irregular migration to the EU? Have you noticed any changes in the trends since 2022/2023 and in what way have these trends changed?
- Have you had any experience in cooperating with third countries or third country transport operators in addressing this type of situations? Are there other actors in transport industry that are relevant in addressing these situations?

On actions to be taken:

- What activities/measures or travel related information would be useful to address the phenomenon of facilitation of irregular migration via air?
- How Commission could support Member States to tackle this phenomenon with third countries/transport operators? In your view, how can engagement at global level, including in cooperation with ICAO and IATA or like-minded third countries help address irregular migration by air?

In preparation for this discussion, the Presidency would kindly invite delegates to coordinate their input with the relevant experts nationally.

TOOLBOX ADDRESSING THE USE OF COMMERCIAL MEANS OF TRANSPORT TO FACILITATE IRREGULAR MIGRATION TO THE EU

Context

The use of commercial means of transport, mainly by air, to facilitate irregular migration to the EU has progressively emerged as a modus operandi of smuggling and trafficking networks. Criminal networks can take advantage of commercial flights between third countries in various ways, such as by using visa-free policy regimes or apparent labour migration opportunities, to bring migrants to countries close to or bordering the EU, from where the migrants then seek to irregularly enter the EU².

This may also be linked to a phenomenon of State-led instrumentalisation of migration³ with an increasing role of State actors in artificially creating and facilitating irregular migration, using migratory flows as a tool for political purposes, such as in the case of Belarus in November 2021.

The European Council, in the conclusions of 9 February 2023, called on the Commission and the Council to take forward the work on relevant tools to address transport operators that engage in or facilitate trafficking in human beings or smuggling of migrants, with the EU Action Plans for Central Mediterranean and Western Balkans further proposing to consolidate an operational toolbox addressing the use of commercial means of transport to facilitate irregular migration to the EU.

To address this, the Commission adopted a Toolbox in 2023 proposing a catalogue of operational, diplomatic measures, and legal instruments aimed at strengthening the EU's response to these situations and further engaging with the airlines, in particular those operating outside of the EU.

² This situation has appeared in several contexts: in the case of Cyprus (flights to the Ercan “airport” in the non-government controlled area, onward movements through the Green Line to the government controlled area of Cyprus), in Central Europe (flights to Belgrade, onward movements to Croatia, Austria, Hungary, Romania, Bulgaria) or the Mediterranean countries (flights from Asia to Middle East or via Middle East to Africa and then onward movements to Malta, Italy, Spain).

³ As observed in the context of the Belarus crisis, with flights from Middle East (UAE, Jordan, Lebanon, Syria, Qatar) and Asia (Iraq, Turkey) flying to Belarus and bringing irregular migrants on the border with Poland, Lithuania and Latvia.

To engage with the air transport industry, the Commission relies on cooperation and information exchange with the Member States, EU Agencies and Eurocontrol and the monitoring of flights and gathering data on the emerging routes and patterns of irregular migration, including in the context of the Migration Preparedness and Crisis Blueprint Network.

The Commission is also considering, as already presented in the meeting of the Working Party on External Aspects of Asylum and Migration (EMWP) on 20 September 2024, to engage more broadly with the aviation industry and the civil aviation authorities and organisations, such as the International Civil Aviation Organization (ICAO), with a view to proposing the development of a Working Paper for the next ICAO Assembly – foreseen to take place in September/October 2025 - on the subject that would include a series of concrete proposals for future ICAO guidelines addressing the growing use of commercial means of air transport to facilitate irregular migration.
