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Subject: Enhancing the response to migrant smuggling networks: a comprehensive and operational set of measures  
- Approval (6 December 2018)

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Delegations will find set out below and further detailed in the Annex a comprehensive and operational set of measures on enhancing the response to migrant smuggling networks, as approved by the Council at its 3661st meeting held on 6 December 2018.

# Enhancing the response to migrant smuggling networks: a comprehensive and operational set of measures<sup>1</sup>

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On 18 October 2018, the European Council called for stepping up the fight against people smuggling networks and invited the Council to develop a comprehensive and operational set of measures to this end by December.

Significant progress has been made under the EU Action Plan against migrant smuggling (2015-2020), which sets out a structured policy framework in the area. To deliver on the European Council's call for further consolidation of the efforts a set of operational measures with law enforcement focus is set out below.

<sup>1</sup> Any measure in this document that implies the mobilisation of additional resources from the EU-budget shall be subject to the approval of the budgetary authority and is without prejudice to negotiations on the Multiannual Financial Framework 2021-2027.

# I. To enhance the flows of relevant information

## 1. Increase the EMSC's capacity to support MSs in migrant smuggling investigations:

- ◆ **Enhance EMSC's** operational and analytical capacities
- ◆ **EMSC to reach out proactively to national competent authorities** to both, promote the operational support available and gather specific feedback on the type of support needed most
- ◆ Active systematic engagement of **MSs to feed Europol's data bases**
- ◆ **Conclude the negotiation of international agreements** allowing the exchange of personal data between Europol and third countries

## 2. Connect all relevant actors to the Information Clearing House at the EMSC (ICH):

- ◆ **Deepen the integration** and streamline the tasks of the current partners to the ICH and **involve new partners** in a step-by-step approach<sup>2</sup>

- ◆ **Increase the flow of strategic information** from third countries, including via the Immigration Liaison Officers (ILOs), law enforcement LOs or liaison magistrates
- ◆ **Improve the technical capacity for communications** between the ICH and relevant CSDP missions/operations via Europol's Secure Information Exchange Network Application (SIENA), where appropriate

## 3. Enhance the direct link between front line information and information analysis capacities:

- ◆ At strategic level, Europol, Frontex and EASO to further cooperate with a view to **jointly assessing irregular migration** to and within the Union
- ◆ At operational level, **front line law enforcement officers to be provided with direct access to Europol data** for cross-checking in real time and on-the-spot in accordance with the Europol Regulation and national legal frameworks

<sup>2</sup> For example, EASO, EMSA, the ICC, EU SatCen, IOM, UNHCR, possibly Eurojust

- ◆ Develop options for short/medium term **deployments of Europol's Mobile Teams of analysts and specialists** (EMAST/EMIST) in migration hubs in alignment with Frontex debriefing activities
- ◆ Information recipients under the **Frontex PeDRA project** to provide proactive, structured feedback to Frontex, while the agency should continue expanding the project

## II. To strengthen the operational tools to effectively disrupt migrant smuggling networks:

### 4. Intensify the use of the EU Policy Cycle/EMPACT:

- ◆ Continue creating **synergies between operational actions** within relevant EMPACT Operational Action Plans having an impact on migrant smuggling with the active involvement of EMSC
- ◆ **Deploy more systematically document fraud experts** from MS, Europol and the Frontex Centre of Excellence for Combating Document Fraud during operational activities

- ◆ **Ensure an optimal EMPACT funding expenditure** for relevant OAPs, while making use of additional funding opportunities, as necessary
- ◆ Facilitate access to available resources for a **more systematic engagement of third countries** in relevant EMPACT operational actions
- ◆ Europol, in close cooperation with Frontex, to produce a **specific report on tackling migrant smuggling in the Western Balkans** by the end of 2019

### 5. Establish a Joint Liaison Task Force on migrant smuggling at Europol (JLT-MS):

- ◆ To be **embedded within the EMSC** and work in full synergy with the ICH, while avoiding any duplication
- ◆ It will be composed of a **permanent operational team** of liaison officers (LOs) from several EU Member States and non-EU partners
- ◆ It will provide a **platform for multilateral, intelligence-led, coordinated actions** against key migrant smuggling threats, including operational work on High Value Targets (HVTs) operating in the EU and third countries

## 6. Use regional joint operational platforms:

- ◆ Subject to a case-by-case evaluation, **establish facilities like the Joint Operational Office** in Vienna or similar facilities in other locations.

## 7. Strengthen the financial investigation component:

- ◆ Member States to ensure that sufficient **resources, expertise and judicial support** are made available to financial investigation on migrant smuggling cases at national level, including by the possibilities offered under the OAP on Criminal Finance, Money Laundering and Asset Recovery
- ◆ **Strengthen Europol's and Eurojust capacity to support financial investigations** and asset recovery in the MSs with relevant expertise and technical support
- ◆ **Reinforce Europol's strategic analysis capabilities** to improve the overall EU intelligence picture on the profile of organised crime groups and the size of criminal markets for smuggling migrants in synergy with the work carried out by Frontex and building on input from other stakeholders

## 8. Strengthen the judicial component:

- ◆ Ensure **stronger involvement of Eurojust** in the relevant EMPACT OAPs
- ◆ **Member States to actively seek Eurojust's support** in migrant smuggling cases, using the full spectrum of judicial cooperation tools available
- ◆ Develop and promote among practitioners the standard use of Eurojust's tailor-made model for JITs agreements to **speed up the setting up of JITs** in migrant smuggling cases
- ◆ Eurojust to continue facilitating the **networking of practitioners** to foster the exchange of best practice, identify challenges and lessons learned in investigation and prosecuting migrant smuggling cases, including by considering the necessity to set up a prosecutors network to that end

## 9. Operational needs-based training:

- ◆ Frontex and CEPOL, with the support of Europol, Eurojust and eu-LISA where relevant to develop **tailored training programmes** for the needs of border control units, consular offices and other relevant services

- ◆ Develop a **joint training multi-stakeholder platform** with third partners<sup>3</sup> on a regional and/or global scale as an accompanying effort

### III. To disrupt smuggling networks' online communications

#### 10. Strengthen the capacity of the EU Internet Referral Unit within Europol, including by making available additional resources to Europol to:

- ◆ **increase the number of referrals**
- ◆ map and **disrupt the technical infrastructure** used by smuggling networks
- ◆ strengthen the EU IRU's **cooperation with online service providers** in this field
- ◆ organise **joint campaigns**, e.g. Targeted Referral Action Days

### IV. To maximise synergies with external action of the Union in priority third countries and regions:

#### 11. Strengthen links with CSDP missions/operations:

- ◆ Identify avenues for **Europol and Interpol to receive relevant information from EU NAVFOR Operation ATALANTA** on non-piracy related crime, e.g. people smuggling in accordance with the legal framework of the operation
- ◆ Based on the results of the pilot project on a Crime Information Cell (CIC) located in EUNAVFORMED Operation SOPHIA explore appropriate ways to further enhance cooperation, including **information exchange between CSDP missions and JHA agencies** in civilian missions within the framework of the Civilian CSDP Compact
- ◆ Make technical, legal and organisational arrangements, taking into account the resource implications, to allow **CSDP missions/operations to exchange information via SIENA**, where appropriate and in line with the legal framework of the missions

<sup>3</sup> CEPOL, Interpol, UNODC and the OSCE

- ◆ Continue the **rotational support by Europol to CSDP missions/operations** through visiting officers

## 12. EU liaison officers (LOs) in the Middle East and North Africa/Sahel/Western Balkan regions:

- ◆ Drawing on the current revision of the ILO Regulation, further **consolidate and coordinate the activities of EU LOs** in third countries, including through joint trainings where relevant, to avoid duplication and allow for recruitment from as wide a pool of potential LOs as possible

## 13. Common operational partnerships (COP) with third countries:

- ◆ To **develop common operational partnerships** with third countries in order to support activities such as joint investigation teams, capacity building or exchange of liaison officers and set up a working group with interested MS working together with the Commission, EEAS and involving relevant EU agencies to implement COP more effectively in priority third countries

- ◆ Explore avenues for **enhanced exchange of information** related to migrant smuggling, including for **ad-hoc support to ongoing investigations** and increased preventive measures, as well as capacity building activities in the third countries in the context of existing cooperation platforms, e.g. AFIC or similar arrangements with other third countries; develop closer cooperation between relevant EU and African Union bodies, such as AFRIPOL

- ◆ **Expand the Police and Custom Cooperation Centers model and Police Cooperation Centres**<sup>4</sup> with neighbouring countries, (e.g. Algeria, Tunisia, Egypt, Turkey, Western Balkans partners)

- ◆ **Foster Synergies with MAOC-N**<sup>5</sup> to exchange information on vessels of interests used by poly-criminal organised groups

<sup>4</sup> Police Cooperation Centers have been created between Spain and Morocco.

<sup>5</sup> MAOC (N) is a platform for combating transatlantic drug trafficking, by air and sea, to Europe and the West African Seaboard. There are seven EU Member States cooperating in the platform: France, Ireland, Italy, the Netherlands, Portugal, Spain and the United Kingdom.

## **Enhancing the response to migrant smuggling networks: a comprehensive and operational set of measures**

The services of criminal groups facilitating irregular entry or stay in the EU remains in high demand and generates increased profits for smuggling networks. Migrant smuggling cases have been reported as an increasingly exploitative form of crime, associated with violence and other serious violations of fundamental rights.

The EU Action plan against migrant smuggling (2015-2020)<sup>6</sup> sets out a structured policy framework identifying a set of concrete measures in four priority areas: 1) enhanced police and judicial response, 2) improved gathering and sharing of information, 3) stronger prevention, and 4) increased cooperation with third countries.

A lot of progress has been achieved so far. The EU Policy Cycle/EMPACT provides for an effective framework for operational cooperation, including through joint action days, involving Member States, third countries, EU agencies, other external partners. Furthermore, the European Migrant Smuggling Centre (EMSC) was established in February 2016 within Europol. As set out in the Malta declaration and its ensuing Action Plan, the Migrant Smuggling Information Clearing House (ICH) was set up within the EMSC one year after.

The European Border and Coast Guard Agency (Frontex) plays a key role in supporting information flow to Europol and concerned Member States, including through the transmission of relevant information from the debriefing of migrants and broader risk analysis input. Furthermore, with document fraud being a main enabler of migrant smuggling, the Frontex Centre of Excellence for Combating Document Fraud started operations on 1 February 2018.

Eurojust is an important actor when it comes to addressing the judicial dimension of fighting migrant smuggling.

eu-Lisa and CEPOL's activities and work are key with regard to the exchange of information and training, respectively.

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<sup>6</sup> 9345/15

The need to further consolidate efforts to tackle smuggling networks in a comprehensive way remains of key importance. The objective should be to disrupt migrant smuggling networks in their entirety, both inside and outside the EU, while taking into account their increasingly poly-criminal nature<sup>7</sup> and high level of adaptability.

An integrated approach dictates that enhanced external borders control are levelled up by an effective law enforcement-led response targeting criminal activities on the territory of the Union, supported by adequate resources and followed by effective criminal proceedings. Furthermore, less than 2% of crime proceeds concerning migrant smuggling are confiscated. Hence, reinforcing the capacities to deal with illicit financial flows in this crime area is a clear priority.

Such an integrated approach should continue to be accompanied by projects and programmes to support the implementation of appropriate legal frameworks in countries of origin and transit, to support third countries' capacities to investigate and prosecute smugglers; to conduct information and prevention campaigns on the risks of engaging or resorting to smuggling, etc.

With reference to the set of operational measures with law enforcement focus outlined above, the following should be taken into account:

## **I. To enhance the flows of relevant information:**

### ***1. Increase the EMSC's capacity to support MSs in migrant smuggling investigations***

In order to maximise the operational support provided by Europol to MSs, Europol's European Migrant Smuggling Centre (EMSC) should **enhance its operational and analytical capacities**. Additional resources need to be put at Europol's disposal accordingly. This should be combined with a **proactive effort by the EMSC to reach out to national competent authorities**, both promoting the operational support available and gathering specific feedback on the type of support needed most, taking into account the developments in the smuggling networks modus operandi and the specific needs encountered at national level.

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<sup>7</sup> 46% of organised criminal groups active in migrant smuggling are also active in THB, drugs trafficking, property crime, money laundering, etc.

Reinforcing the capacities of Europol requires providing adequate resources to the MSs, both within police and judicial authorities, to guarantee efficient and comprehensive investigations and a proper judicial follow up.

The **active, systematic engagement of MSs to feed Europol's databases** with relevant information, including from third countries, is crucial to improve the intelligence picture and identify links between criminal actors.

Meanwhile, the Commission should aim to **conclude the negotiation of international agreements** allowing the exchange of personal data between Europol and third countries<sup>8</sup> as soon as possible.

## ***2. Connect all relevant actors to the Information Clearing House at the EMSC (ICH)***

The Information Clearing House is a multi-agency/multi-stakeholder platform developed within the EMSC to enhance the intelligence picture on organised crime groups and high-value targets (HVTs) facilitating illegal immigration along migration routes, with a geographical focus on third countries of origin and transit. It pools together military and law enforcement intelligence, as well as information from EU agencies and partners. The material it produces is designed to be of direct use to the national authorities responsible for the actual investigations and prosecution.

**To deepen the integration and streamline the tasks of the current partners** to the ICH (e.g. Member States, EUNAVFORMED, Interpol, Frontex and EUROGENDFOR), where relevant, Europol should finalise the working arrangements with them as soon as possible. The **involvement of new partners**, e.g. EASO, EMSA, the ICC, EU SatCen, IOM, UNHCR and possibly Eurojust, should be pursued in a step-by-step approach, to ensure that the inherently operational character of the ICH is maintained.

The next steps should include an **increase in the strategic information flow to the ICH from third countries** including through Immigration Liaison Officers (ILOs), law enforcement or magistrate LOs. Efforts should be made to improve the technical capacity for communications between the ICH and relevant CSDP missions/operations via Europol's Secure Information Exchange Network Application (SIENA) where appropriate.

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<sup>8</sup> In June 2018, the Council authorised the Commission to open negotiations with Algeria, Egypt, Israel, Jordan, Lebanon, Morocco, Tunisia and Turkey.

In order to address specific deficiencies in third countries identified in the cooperation with the ICH, targeted capacity-building projects could be developed, including with partners such as UNODC, OSCE, IOM, and UNHCR.

### ***3. Enhance the direct link between front line information and information analysis capacities***

Member States' and EU resources – e.g. MSs' ILOs and European Migration Liaison Officers (EMLOs), Europol liaison and guest officers, Frontex regional risk analysis networks with third countries (e.g. the Africa-Frontex Intelligence Community (AFIC)) and the network of LOs of other EU agencies, such as Frontex, all falling within the remit of the Commission's current proposal for a Regulation on the creation of a European network of immigration liaison officers (recast)<sup>9</sup> should be used more efficiently in order **to allow a dynamic and fluid exchange of strategic data between all entities with due respect to their mandates.**

At strategic level, **Europol, Frontex and EASO should further cooperate with a view to jointly assess the irregular migration** towards and within the EU with a view to further strengthening the knowledge and capacities of the respective Agencies/Office and EU Member States (EU MSs) to respond to the phenomenon.

At operational level, **front line law enforcement officers should be provided with the possibility to access Europol data** directly for cross-checking in real time and on-the-spot<sup>10</sup> in accordance with the Europol Regulation and national legal frameworks.

In order to support investigations more efficiently and to allow for a better alignment with Frontex debriefing activities, options for short and medium-term **deployments of Europol's Mobile Teams of analysts and specialists (EMAST/EMIST)** to existing migration hubs should be developed, in close consultation between the two agencies, fully maximising potential synergies.

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<sup>9</sup> Commission Proposal for a Regulation on the creation of a European network of immigration liaison officers (recast) (COM(2018) 303 final), to repeal Council Regulation (EC) No 377/2004 of 19 February 2004 on the creation of an immigration liaison officers network, as amended by Regulation (EU) No 493/2011 of the European Parliament and of the Council of 5 April 2011.

<sup>10</sup> Special attention should be given to the implementation in MS of the Europol-led project “Querying Europol Systems” (QUEST).

**Frontex should continue to develop its PeDRA project<sup>11</sup>**, which should increase information flows and enhance of the use of data by Europol and Member States. Proactive, structured feedback provided by information recipients to Frontex should facilitate more targeted border control measures.

Finally, expanded debriefing activities by Frontex will increase the amount of information available on migrant smuggling, including criminal data, and thus help to disrupt the business model of the criminal networks. In this context, **obstacles to information flows between Europol and Frontex should be overcome**, in particular as regards the possibility of Frontex receiving personal data. The proposal for a new European Border and Coast Guard Agency (EBCGA) Regulation<sup>12</sup> will be instrumental to progress in this respect.

## **II. To strengthen the operational tools to effectively disrupt migrant smuggling networks:**

### ***4. Intensify the use of the EU Policy Cycle for organised and serious international crime/EMPACT***

Member States should use EMPACT (the European Multidisciplinary Platform Against Criminal Threats) to its full potential to tackle criminal networks smuggling migrants to and across the EU.

Expanding on the support that the EMSC already provides to EMPACT activities in the Operational Action Plan (OAP) on facilitation of illegal immigration (FII), EU MSs, Europol, Frontex, Eurojust and other participants **should further increase their efforts “to disrupt OCGs which facilitate illegal immigration by providing facilitation services to irregular migrants along the main migratory routes crossing the external border of the EU and within the EU, particularly focussing on those whose methods endanger people’s lives, those offering their services online and making use of document fraud as part of their business model.”<sup>13</sup>**

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<sup>11</sup> In 2016 Frontex launched its PeDRA (Processing of Personal Data for Risk Analysis) Project. Its aim is to process the personal data collected during interviews with migrants newly arrived in Italy. The new mandate of the Agency allowed the PeDRA project to be extended to Frontex operational activities in Spain and Greece, and has recently become part of all Joint Operations as standard practice. It allows closer cooperation with Europol and the security and law-enforcement agencies of the EU and the Member States.

<sup>12</sup> COM(2018) 631 final of 12 September 2018

<sup>13</sup> Council conclusions on setting the EU’s priorities for the fight against organised and serious international crime between 2018 and 2021 (9450/17)

**Combined efforts with other Operational Action Plans having an impact on migrant smuggling**, such as Trafficking in Human Beings, Criminal Finance, Money Laundering and Asset Recovery and the cross-cutting priority Document Fraud, and links to other categories of crime, such as drugs trafficking or cybercrime (e.g. online provision of illicit goods and services related to the facilitation of illegal immigration including on the Darknet), should be maximised in support of operational activities and investigations.

**Document fraud experts** from MS, Europol and the Frontex Centre of Excellence for Combating Document Fraud should be deployed more intensively during operational activities such as Joint Action Days (JADs).

In the context of local Schengen cooperation between Member States' consulates and the Commission on the basis of Article 48 of the Visa Code, Member States' consular services in third countries and regions regularly provide information about migration and security risks or document fraud practices. This information may be instrumental in identifying suspicious conduct for follow-up.

**Optimal expenditure of EMPACT funding** has to be ensured. For the OAP 2019 on Facilitation of Illegal Immigration, enhanced funding of EUR 400 000 (out of the total EMPACT budget of EUR 3 million for high value grants) has already been made available. However, this is not sufficient to finance all the planned operational activities. Additional funding opportunities for operational activities on the spot should be explored further.

**Third countries should be further encouraged to be involved in relevant EMPACT actions**, including by making sure they have easy access to available resources for meetings, interpretation/translation, payment of per-diems and operational facilities to support concrete investigations with EU MSs.

**Building on the existing Task Force Western Balkans** led by Austria under the EMPACT OAP FII, with the participation of Europol, Frontex and key EU MSs and WB partners, cooperation with the region should be intensified by ensuring the participation of all relevant MSs and EU agencies. The focus should be on modi operandi (including smuggling by air), support for operational cooperation, and exchange of relevant data (flows, trends, detailed national statistics). The Task Force Western Balkans will integrate criminal police, border police, customs and financial investigators in its operating model in order to provide an integrative response to migrant smuggling. This model provides useful insights on how to address migrant smuggling activities and could eventually be replicated for the Central and Western Mediterranean route, while taking into account the specific circumstances there.

**Europol, in close cooperation with Frontex, should produce a specific report on tackling migrant smuggling in the Western Balkans by end of 2019.** The report should make use of information gathered through all available sources from EU Member States and third countries alike, including the Task Force Western Balkans, the Vienna Joint Operational Office, and the various Liaisons Officers posted in the region, in full synergy with broader analyses carried out together with Frontex and EASO on secondary movements. The main aim of this report will be to provide an overview of the current challenges in tackling migrant smuggling crime networks in the area, including the types of criminal networks operating in the region, the main crime hubs, their geographical distribution, their links with other crime networks, and their main modi operandi. The report should also contain proposals on how to overcome these challenges in practice, in order to prepare discussions on developing a roadmap identifying specific objectives, actors and operational tools to disrupt the active crime networks.

##### ***5. Establish a Joint Liaison Task Force on migrant smuggling at Europol (JLT-MS)***

The European Council specifically called for the establishment of a joint task force at Europol's EMSC. The main objective of such a task force will be to promote and facilitate the joint identification, prioritisation and initiation of cross-border investigations and operations by its members and associates. As an operational platform, the JLT-MS will be embedded within the EMSC and will work in full synergy with the ICH, while avoiding any duplication.

The JLT-MS will be composed of a permanent operational team of liaison officers (LOs) from several EU Member States and non-EU partners, who are experts on migrant smuggling/trafficking in human beings. **MSS' experts will participate in multilateral, intelligence-led, coordinated actions against key migrant smuggling threats, including operational work on High Value Targets (HVTs) operating in the EU and third countries.** The LOs will ensure that there is a direct connection to operational cases at national level. The JLT-MS will thus mirror existing successful Europol platforms such as J-CAT and CT-JLT. The JLT-MS will provide a direct link between frontline information and Europol analysis. It will also work closely with JOT MARE, which brings together a team of seconded national experts from MSs to analyse data and provide expertise about the Mediterranean area.

The JLT-MS should also facilitate further bringing together of multidisciplinary expertise on different types of crime, such as THB, document fraud, financial investigations, etc.

The JLT-MS, via the Member States' LOs, should be in a position to communicate directly with ILOs and their representatives in third countries, allowing for faster information sharing. Where there is an operational need, the work of the JLT-MS could involve third countries and/or private sector representatives. By working together under the JLT-MS umbrella, participating stakeholders would thus be in a position to build on regional cooperation schemes and transform regional cooperation into high-impact international cooperation.

#### ***6. Use regional joint operational platforms***

Regional joint operational platforms, such as the Joint Operational Office (JOO) in Vienna, can provide a functional interface for cooperation with third countries on specific regional challenges. **Such or similar facilities could be established in other locations**, subject to a case-by-case evaluation. Full coordination, involvement and use of capabilities of the EMSC and Frontex, in particular the coordinated joint operations and pilot projects in hosting EU MSs and third countries run by Frontex, should be ensured.

## ***7. Strengthen the financial investigations component***

Member States should launch financial investigations on a more systematic basis in order to identify and seize criminals' profits and assets. To that end, **Member States should ensure that sufficient resources, expertise and judicial support are made available to financial investigation** on migrant smuggling cases at national level, including through enhanced international cooperation. The possibilities offered under the OAP on Criminal Finance, Money Laundering and Asset Recovery should be used to their full extent.

Eurojust should identify any obstacles that might be detrimental to more effective financial investigations in the course of prosecutions.

Europol's financial intelligence capabilities should support Member States' investigations and EMSC cases in particular by facilitating access to information from Financial Intelligence Units (FIUs), Asset Recovery Offices (AROs) and Customs agencies. **Europol's capacity to support financial investigations and asset recovery** in the MSs with relevant expertise and technical support should be strengthened.

In synergy with the work carried out by Frontex and building on input from other stakeholders, Europol's strategic analysis capabilities should be reinforced to **improve the overall EU intelligence picture** on the profile of organised crime groups and the size of criminal markets for smuggling migrants.

## ***8. Strengthen the judicial component***

Judicial follow-up, including in third countries, is key to ensuring that all ongoing efforts against migrant smuggling networks are effective. A **stronger involvement of Eurojust in the relevant EMPACT OAPs, as well as enhancing the role of the Eurojust Contact Points to the relevant Analysis Projects** and would be instrumental to identify at an early stage cases which would benefit from Eurojust's support.

The overall number of referrals to Eurojust is significantly low. Member States are encouraged to actively seek at an early stage Eurojust's support in migrant smuggling cases to exchange judicial information, avoid conflicts of jurisdiction and agree on a prosecutorial strategy. A full use of the facilitating role of Eurojust and its **judicial cooperation tools**, e.g. coordination meetings, coordination centres and joint investigation teams (JITs)), as well as its capacity to cooperate with third States should be stimulated.

Eurojust's tailor-made model for JITs agreements to speed up the setting up of JITs in migrant smuggling cases should be developed and its standard use promoted. When setting up JITs, further consideration should be given to the specific requirements associated with more effective prosecution of migrant smuggling cases, e.g. the fact that migrants could also be considered as witnesses to facilitate later criminal proceedings, exploring the possibility of taking statements at the scene of the rescue of migrants and ensuring the admissibility of such statements in later proceedings, etc.

Eurojust, through its dedicated structure, should continue facilitating the networking of practitioners to foster the exchange of best practice, identify challenges and lessons learned in investigation and prosecuting migrant smuggling cases, including by considering the necessity to set up a prosecutors network to that end.

### ***9. Operational needs-based training***

While a wide range of capacity building instruments are available, EU and global actors can optimise their efforts to better meet operational needs in border management.

**Frontex and CEPOL should lead the development of specific training programmes supported by Europol, Eurojust and eu-LISA where applicable**, targeting the needs of border control (checks and surveillance) units, consular offices and other relevant services.

The enhancement of intra-EU training programmes should be accompanied by an **equivalent effort on a wider scale**. The creation of a programme of joint training sessions and exercises on a regional or global scale could be considered. The programme could provide a comprehensive worldwide multi-stakeholder platform involving CEPOL, Interpol, UNODC, and the OSCE.

### **III. To disrupt smuggling networks' online communications:**

#### ***10. Strengthen the capacity of the EU Internet Referral Unit within Europol***

Internet investigations of migrant smuggling networks and related referrals should be enhanced to map the digital footprint of organised crime groups, facilitate attribution and limit the access to online facilitation of illegal immigration. The information flow from Member States and Union bodies should be improved to step up referrals. Creating synergies with the activities of other JHA agencies such as EASO and Frontex in this context should increasingly lead to referrals, strategic analysis and operational leads.

Strengthening the capacities of the EU IRU to disrupt the smuggling networks' online communications has to be mirrored by adequate capacities in the law enforcement services of the MS.

The EU Internet Referral Unit (IRU) currently has a limited capacity to monitor and disrupt smuggling networks' online communication and related online infrastructure.

**As a matter of priority, the EU IRU's capacities in the area of migrant smuggling should be reinforced, including through making available additional resources in order to:**

- increase the number of referrals;
- map and disrupt the technical infrastructure used by smuggling networks;
- strengthen the EU IRU's cooperation with online service providers in this field, going beyond the social media companies (to include all types of hosting service providers);
- organise joint campaigns in the form of Targeted Referral Action Days following the successful results this model has produced in the counterterrorism (CT) context.

To support the work on countering migrant smuggling, the Commission could explore synergies with work carried out on other types of crime through the EU Internet Forum. Possible measures include enhancing cooperation with private companies and ensuring appropriate training for MSs' investigators and the social media industry in order to facilitate referrals.

#### **IV. To maximise synergies with external action of the Union in priority third countries and regions:**

##### ***11. Strengthen links with CSDP missions/operations***

The work of both **civil and military CSDP missions and operations** that are active on the main migratory routes, such as Operation SOPHIA, EUBAM Libya, EUCAP Sahel Niger, EUCAP Sahel Mali and EUTM Mali, has proved instrumental and clearly demonstrates the regional and cooperative approach of CSDP in the context of migration.

While the EMSC should focus on enhancing cooperation with third countries where operational agreements allow for the direct exchange of personal data, such as in the Western Balkans region, **rotational support from Europol** to three civilian CSDP missions (EUCAP Sahel Mali, EUCAP Sahel Niger and EUBAM Libya), for which specific Terms of Reference were established in March 2018, is a positive step forward.

EU NAVFOR Operation ATALANTA might be in a position to feed Europol and Interpol databases with valuable information on irregular migration through the Gulf of Aden and the Red Sea, gathered under the Operation's legal framework. **Avenues for these agencies to receive relevant information from EU NAVFOR Operation ATALANTA** on non-piracy related crime, e.g. people smuggling, should be identified in accordance with the Operation's legal framework.

**Based on the results of the pilot project on a Crime Information Cell (CIC)** located within EUNAVFORMED Operation SOPHIA and within the framework of the Civilian CSDP Compact, further appropriate ways to enhance operational cooperation, including information exchange between CSDP missions and JHA agencies in civilian missions, should be explored by the relevant Council bodies.

CSDP missions can already share strategic information, when this is foreseen in their mandate. There is a clear need to examine the wider tools and resources available to ensure that potential linkages between JHA and CSDP actors in the region are maximised, while taking into account the host countries needs. This includes providing a legal framework for CSDP missions/operations in order to improve for the exchange of personal data with JHA agencies and the adequate level of protection of such data.

The **civilian CSDP Compact**<sup>14</sup> sets the commitment by the Council and the Member States to support the contribution of CSDP missions to address a set of security challenges, such as organised crime and migrant smuggling, including how to strengthen CSDP-JHA collaboration and information sharing in both ways<sup>15</sup>.

Technical, legal and organisational arrangements should be made, taking into account the resource implications, with a view to allowing CSDP missions/operations to **exchange information via SIENA**, where appropriate.

## *12. EU liaison officers in the Middle East and North Africa/Sahel/Western Balkans regions*

**Coordinating the activities of EU LOs in third countries** (e.g. EMLOs in EU Delegations, MSs' ILOs, liaison officers of Europol and Frontex) is key. This should support the activities of all the JHA agencies and Member States. It is also important to bring coherence to the current scattered network of liaison officers working in silos in order to avoid losing credibility among the Union's external partners.

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<sup>14</sup> Adopted by the Council on 19 November 2018

<sup>15</sup> While keeping focus on the so called Feira priorities of strengthening police, rule of law and civil administration in fragile and conflict settings as its core functions, underling as well the importance of Security Sector Reform (SSR) and monitoring tasks, the civilian CSDP Compact includes as core tasks for civilian CSDP to contribute to the EU's wider response to tackle security challenges, including those linked to irregular migration, hybrid threats, cyber security, terrorism and radicalisation, organised crime, border management and maritime security, as well as preventing and countering violent extremism, also taking into account the need to preserve and protect cultural heritage.

Furthermore, Frontex and Europol should further strengthen regular interactions with MSs' ILOs and European Migration Liaison Officers (EMLOs) in the context of the current operational meetings (e.g. ILO AFIC Meetings).

**The current revision of the ILO Regulation** is an important step towards improving support for MSs and the EU as a whole, allowing a more effective response to the challenges posed by migrant smuggling through improved cooperation and optimised use of resources deployed in third countries. For example, joint training could be provided where relevant and agreed by deploying authorities, so as to avoid duplication and allow for recruitment from as wide a pool of potential LOs as possible.

### ***13. Common operational partnerships and cooperation with third countries***

While operational agreements with relevant third countries are to be concluded, active engagement of Member States and EU entities to reach out to priority third countries to fight against migrant smuggling more effectively is key, including in the framework of other instruments for international cooperation, such as the Protocol against the smuggling of migrants by land, sea and air, supplementing the UNTOC.

Moving towards more flexible frameworks for dialogue and cooperation that would assist in building '**common operational partnerships**' (COP) with such countries to dismantle migrant smuggling crime networks should be considered. Through a COP, national authorities and partner third countries can develop proper joint investigation teams but also a broader range of activities, including capacity building, on-the-job mentoring or exchange of liaison officers.

**A working group of interested Member States working together with the EEAS and the Commission, and involving relevant EU agencies** should be set up. The objective should be to identify countries where COP would be useful and feasible, promote the concept with these countries, support dialogue with them and allow EU MSs to put forward and lead concrete projects for developing such common operational partnerships with third countries, drawing on Union capacities.

Cooperation with third countries (of origin, transit and departure) remains a key means of curbing migrant smuggling activities before irregular migration flows reach the EU. Frontex has already established a close cooperation platform with African countries – **the African-Frontex Intelligence Community (AFIC)** – and comparable arrangements with other third countries (Turkey, the WB region, Eastern Partnership). This should be further explored as a platform for enhanced exchange of information/intelligence related to migrant smuggling, including for ad-hoc support to ongoing investigations and increased preventive measures, as well as capacity building activities in the third countries involved. Possibilities for closer cooperation between relevant EU and African Union bodies such as AFRIPOL should also be further explored.

The lessons learned from the deployment of the MSs led **Joint Investigation Team (JIT)** in Niger should be used to assess how information sharing and capacity building can be combined in support of third countries. Synergies with projects foreseen under the Joint Valletta Action Plan should also be pursued where relevant<sup>16</sup>.

The Police and Customs Cooperation Centres (PCCCs) are a support structure for exchanging information and providing support to the activities of the operational agencies responsible for police, border and customs tasks in the border area. **PCCCs or Police Cooperation Centres with neighbouring countries**, (e.g. Algeria, Tunisia, Egypt, Turkey, Western Balkans partners) could also enable a more structured information flow. The existing Police Cooperation Centres between Spain and Morocco could serve as an example.

**Synergies with MAOC-N<sup>17</sup>** should be created to improve the exchange of information on vessels of interest used by poly-criminal organised groups in order to allow effective investigation of HVTs.

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<sup>16</sup> Both the regional Rabat and Khartoum processes are implementing projects under Domain 4 of the JVAP, dealing with the Prevention of and fight against irregular migration, migrant smuggling and trafficking in human beings.

<sup>17</sup> MAOC (N) is a platform for combating transatlantic drug trafficking, by air and sea, to Europe and the West African Seaboard. There are seven EU Member States cooperating in the platform: France, Ireland, Italy, the Netherlands, Portugal, Spain and the United Kingdom.

## List of Acronyms

AFIC	Africa-Frontex Intelligence Community
ARO	Asset Recovery Offices
CIC	Crime Information Cell
CSDP	Common Security and Defence Policy
CT	Counter Terrorism
EMAST	Europol's Mobile Teams of analysts and specialists
EMLO	European Migration Liaison Officers
EMPACT	European Multidisciplinary Platform Against Criminal Threats
EMSA	European Maritime Safety Agency
EMSC	European Migrant Smuggling Centre
FII	Facilitation of Illegal Immigration
FIU	Financial Intelligence Unit
JAD	Joint Action Day
J-CAT	Joint Cybercrime Action Taskforce
JIT	Joint Investigation Team
JLT	Joint Liaison Taskforce
JOO	Joint Operational Office
HVT	High Value Target
ICC	International Criminal Court
ICH	Information Clearing House
ILO	Immigration Liaison Officer
IRU	Internet Referral Unit

MAOC-N	Maritime Analysis and Operations Centre - Narcotics
OAP	Operational Action Plan
OCG	Organised Crime Group
OTF	Operational Task Force
OSCE	Organisation for Security and Cooperation in Europe
PCC	Police Cooperation Centres
PeDRA	Processing of personal data for risk analysis
SIENA	Secure Information Exchange Network Application

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