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**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL
COMMITTEE AND THE COMMITTEE OF THE REGIONS**

EU Action Plan against migrant smuggling (2015 - 2020)

I. INTRODUCTION

The European Agenda on Migration, which was adopted by the European Commission on 13 May 2015, identified **the fight against migrant smuggling as a priority**, to prevent the exploitation of migrants by criminal networks and reduce incentives to irregular migration. The Agenda set the goal to transform migrant smuggling networks from 'low risk, high return' operations into 'high risk, low return' ones.

The European Agenda on Security, adopted by the Commission on 28 April 2015, also singled out cooperation against the smuggling of migrants inside the EU and with third countries as a priority in the fight against organized crime networks.

This **Action Plan against migrant smuggling** sets out the specific actions necessary to implement the two Agendas in this area, and incorporates the key actions already identified therein.

Ruthless criminal networks organize the journeys of large numbers of migrants desperate to reach the EU. They make substantial gains while putting the migrants' lives at risk. To maximize their profits, smugglers often squeeze hundreds of migrants onto unseaworthy boats – including small inflatable boats or end-of-life cargo ships - or into trucks. **Scores of migrants drown at sea, suffocate in containers or perish in deserts.** Over 3 000 migrants are estimated to have lost their lives in the Mediterranean Sea in 2014, according to the International Organisation for Migration¹ (IOM). Around 1 700 are thought to have drowned in the first four months of 2015. The human rights of migrants are often gravely violated through abuse and exploitation.

Irregular migration by sea, in particular along the Central and Eastern Mediterranean routes, has **increased exponentially over the past year** with almost 225 000 migrants in 2014 - nearly three times as many as in 2013². So have the risks that the migrants are exposed to when crossing the Mediterranean. Other migratory routes, for instance in the Western Balkan region, have seen similar increases in 2014 - with the highest ever level of irregular migrants entering the EU recorded since 2007³.

Smugglers treat migrants as goods, similar to the drugs and firearms that they traffic along the same routes. They shift swiftly the smuggling routes to adapt to the security situation in transit countries or to law enforcement responses. They also misuse procedures for legal entry and stay. For instance, bus companies have openly advertised to nationals of Kosovo the possibility to abuse benefits systems and return assistance in the EU.

Migrant smuggling is a highly profitable business, with criminal networks thriving on the low risk of detection and punishment. **While data on profits obtained by smuggling networks globally are not available, isolated cases show that these are**

¹ International Organisation for Migration: *Fatal Journeys - Tracking Lives Lost during Migration*, 2014.

² Data from the EU Agency for the Management of Operational Cooperation at the External Borders (Frontex), 2015.

³ Idem.

substantial. In just one incident involving the cargo vessel Ezadeen intercepted on 1 January 2015 by the Joint Operation Triton with 360 migrants on board, smugglers are believed to have earned EUR 2,5 million.

II. A STRONGER EUROPEAN RESPONSE TO MIGRANT SMUGGLING

Strong cooperation at the EU level, as well as with third countries of origin and transit, strategic partners, international organisations and civil society, is essential for disrupting the activities of smugglers, bringing them to justice and seizing their assets.

This first EU Action Plan sets out concrete actions to **counter and prevent migrant smuggling**, while ensuring the protection of the human rights of migrants. It is based on a multidisciplinary approach, involving actors and institutions at local, regional, national and international level. It covers all phases and types of migrant smuggling, and all migratory routes.

The Action Plan should be seen in the broader context of EU efforts to **address the root causes of irregular migration**, in cooperation with countries of origin and transit, and prevent the loss of lives caused by smugglers and traffickers. It should also be seen in connection with on-going work to establish a Common Security and Defence Policy (CSDP) operation to systematically identify, capture and dispose of vessels used by smugglers.

Smuggling networks can be weakened if fewer people seek their services. Therefore, it is important to open **more safe, legal ways** into the EU. Also, efforts to crack down on migrant smuggling must be matched with strong action to **return the migrants that have no right to stay in the EU** to their home countries. An effective return policy is a strong deterrent, as migrants are less likely to pay a high price to smugglers to bring them to the EU if they know that they will be returned home quickly after reaching their destination.

This Action Plan **focuses on migrant smuggling**. Trafficking in human beings, a different yet interlinked crime⁴, is being addressed at the EU level under a separate strategy⁵.

The implementation of actions foreseen in this plan will start immediately and will be made in coherence with other related strategies at EU level⁶. Additional actions to fight migrant smuggling will be undertaken over the next years to target this rapidly changing crime.

⁴ The difference between the two is that in the former, migrants willingly engage in the irregular migration process by paying for the services of a smuggler in order to cross an international border, while in the latter they are the victims, coerced into severe exploitation which may or may not be linked to the crossing of a border. The two phenomena are not easy to disentangle as persons who start their journeys in a voluntary manner are also vulnerable to networks of labour or sexual exploitation.

⁵ The EU Strategy towards the Eradication of Trafficking in Human Beings 2012–2016, COM(2012) 286 final.

⁶ European Maritime Security Strategy, Cyber Security Strategy and the EU Strategy towards the Eradication of Trafficking in Human Beings 2012–2016.

1. ENHANCED POLICE AND JUDICIAL RESPONSE

To transform migrant smuggling into a high-risk and low-profit operation, it is essential to disrupt the business model of criminal groups and bring the perpetrators to justice. This requires enhancing the capacities of Member States to investigate and prosecute migrant smuggling networks and the ability of EU Agencies to provide support. It also requires stronger coordination between law enforcement and judiciary structures in the EU and a multi-agency approach.

The Commission will make, in 2016, proposals to **improve the existing EU legal framework to tackle migrant smuggling**⁷, which defines the offence of facilitation of unauthorized entry and residence, and strengthen the penal framework. It will seek to ensure that appropriate criminal sanctions are in place while avoiding risks of criminalisation of those who provide humanitarian assistance to migrants in distress.

Identifying, capturing and disposing of vessels

To prevent and clamp down on migrant smuggling by sea, systematic efforts will be undertaken to **identify, capture and dispose of vessels** intended to be used by smugglers. A **list of suspicious vessels** likely to be used in the Mediterranean will be set up. This will include, for instance, registered vessels at the end of their lifetime and foreseen for scrapping. The relevant EU Agencies and the Member States' authorities should set **risk criteria** for identifying such vessels and ensure that they are systematically monitored, by using Eurosur and the capacities of all agencies.

After securing the safety of people, boats used or intended to be used by smugglers should be systematically towed to land or disposed of at sea. The Commission and the relevant EU Agencies, in particular Frontex, will provide to the Member States financial and technical support to **tow boats to the shores and scrap them**. These efforts should be seen in conjunction with the establishment of a **CSDP operation** to contribute to the disruption of migrant smuggling networks.

Depriving smugglers of their profits

Proactive financial investigations to seize and recover criminal assets, and taking action against money laundering, are crucial for weakening the criminal networks involved in migrant smuggling. The EU should step up cooperation with Financial Intelligence Units and other relevant networks on financial flows in the area of migrant smuggling.

As set out in the European Agenda on Security, law enforcement must have the capacity to turn the spotlight on the finance of organised crime groups involved in the smuggling of migrants. Targeting money connected with migrant smuggling rings should become a priority for the National Asset Recovery Offices and the Camden Asset Recovery Inter-Agency Network (CARIN). The Commission, with the support of relevant EU Agencies, will initiate cooperation with financial institutions, such as banks, credit transfer service providers, and credit cards issuers on tracing assets connected with migrant smugglers. Moreover, the EU should step up significantly its

⁷ In 2002, the EU adopted rules to crack down on migrant smuggling, the so-called 'Facilitators Package' which is composed of Directive 2002/90/EC establishing a common definition of the offence of facilitation of unauthorised entry, transit and residence, and Framework Decision 2002/946/JHA on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence.

cooperation with third countries, to enable the tracking and **confiscation of crime proceeds** in the countries of origin and transit of migrants.

Enhancing operational cooperation against migrant smuggling

A **single point of contact on migrant smuggling** should be established in each Member State to enhance operational cooperation, coordination and the sharing of information with each other and with EU Agencies.

The Commission will set up a **Contact Group of EU Agencies** on migrant smuggling, to strengthen operational cooperation and information exchange between the relevant EU Agencies.

In parallel, the capacities of EU Agencies to address migrant smuggling will be enhanced. Eurojust should set up a **thematic group on migrant smuggling** to strengthen and formalise cooperation between national prosecutors and enhance mutual legal assistance.

Support for **capacity building** to help Member States' law enforcement authorities reduce migrant smuggling is crucial, as is the use of **Joint Investigation Teams** and the provision of mutual assistance in cases of migrant smuggling. Eurojust can make a strong contribution through the financing of Joint Investigation Teams and support for mutual legal assistance in criminal matters.

The Commission, with relevant EU Agencies, in particular CEPOL and Europol, as well as the European Judicial Training Network, will **map training needs** at EU and national level to enable a better targeting of capacity building. This should include tailor-made training for judiciary, law enforcement, border guards and consulate authorities on cross-border cooperation to counter migrant smuggling. The Fundamental Rights Agency will develop the fundamental rights dimension, in particular as regards the protection of smuggled migrants.

The actions against migrant smuggling under the **EU Policy Cycle for organised and serious international crime** will be stepped up, including cross-border cooperation on document fraud, sham marriages, and other forms of abuse of legal entry and residence procedures.

Specific actions

- Revision of EU legislation on migrant smuggling by 2016
- Establishment of list of suspicious vessels and monitoring of these vessels
- Support to Member States for towing to shore boats intended to be used by smugglers or disposing of them at sea
- Launching cooperation with financial institutions to step up financial investigations
- Establishment of a single point of contact on migrant smuggling in each Member State
- Setting up of a Contact Group of EU Agencies on migrant smuggling
- Creation of a Eurojust thematic group on migrant smuggling

2. IMPROVED GATHERING AND SHARING OF INFORMATION

Gathering and sharing information on modus operandi, routes, economic models of smuggling networks, on links with trafficking in human beings and other crimes, and on financial transfers, **is crucial for targeting it effectively.**

At present, knowledge and information about migrant smuggling are sporadic, because of the underground and rapidly changing nature of this crime. The networks' modus operandi depends largely on the region and the circumstances of the migrant who is paying. Obtaining region-specific information is crucial. The criminal organisations involved in migrant smuggling may be active both in legitimate and illicit businesses, although lack of research and evidence obscures our understanding of these links.

The capacities of EU Agencies to collect, exchange and analyse information on migrant smuggling should be reinforced. Full use should be made of the risk analyses on migrant smuggling routes produced by Frontex. As part of the immediate actions announced in the European Agenda on Migration, Europol's Focal Point on migrant smuggling and its **Joint Operational Team (JOT) MARE** should be strengthened, to make it the EU information hub for cases of migrant smuggling by sea. Within the framework of JOT MARE, an ad hoc operational team should be deployed to enhance the information collection and operational capabilities. Frontex and the proposed new CSDP operation EUNavFor MED should be closely associated with the team, in particular through effective information-sharing arrangements.

Enhancing information gathering and exchange in third countries

The **EU Delegations' capacities** in the field of migration should be reinforced, through the deployment of European migration liaison officers in key countries. These should be embedded in the existing Network of Immigration Liaison Officers (ILOs) and connected with relevant EU Agencies. The Commission will evaluate, in 2016, and consider a **possible revision of the existing EU legislation on ILOs**⁸ to enhance their ability to obtain and share relevant information.

Cooperation with Interpol regional bureaus in key African countries should be strengthened, to enhance exchange of police information on migrant smuggling. The **Africa Frontex Intelligence Community (AFIC)** should be further developed as a platform for information-sharing and joint analysis with third countries. The launch of similar platforms in other key regions should be considered.

Ensuring full use of available tools to gather information

The EU should further develop monitoring of **pre-frontier area** for early identification of smugglers and prevention of irregular departures of migrants, including through the use of Frontex tools, such as Eurosur. The potential of using satellite imagery following the agreement signed by Frontex and the EU Satellite Centre Sat Cen should be fully exploited. **EU IT systems** (e.g. SIS II, VIS) and the European Document Fraud Network should be used to improve risk analysis and enable identification of irregular entry and stay through 'look-alike', falsified or forged documents, or nationality swapping.

⁸ Council Regulation (EC) No 377/2004 of 19 February 2004 on the creation of an immigration liaison officers network. OJ L 64/1, 2.3.2004.

Cooperation between relevant EU networks and agencies, and Interpol, should be strengthened. The upgrading and broader use of tools that enable the **exchange of information on fraudulent identify** and travel documents, such as Interpol's Dial-Doc and Frontex' Reference Manual for frontline border guards and law enforcement officers, should be considered.

The **Hotspot** approach launched by the European Agenda on Migration should enable EU Agencies to provide substantial support on the ground to frontline Member States, to target migrant smuggling. Europol, in cooperation with Frontex and Eurojust, should deploy joint mobile teams to provide on-the-spot operational and information support to the frontline states. Trained debriefing and screening teams would be deployed more broadly to interview migrants upon arrival at the EU external borders. The resulting **concentration and fusion of information** should help with the investigations.

Moreover, standard procedures for gathering information about facilitation of irregular migration at an appropriate stage during the asylum determination process, in full respect of EU and international humanitarian rights and refugee law, should be developed, based on the pilot project carried out by the European Asylum Support Office.

The Commission will develop recommendations for Member States' law enforcement authorities regarding the collection of information on smuggling from apprehended irregular migrants, in full respect of fundamental rights. These will be included in the **handbook on return**, which the Commission will present in 2015.

Monitoring of internet content and development of knowledge-base

Smugglers use the internet to attract migrants. Europol will support national authorities to detect and, where appropriate, request the removal of **internet content used by smugglers**, in accordance with national law. In this respect, closer cooperation with internet services providers and social media should be established. Eurojust will play an important role to facilitate the exchange of best practice and identify challenges regarding the collection and use of e-evidence in investigations and prosecutions related to migrant smuggling, with the necessary safeguards.

Conducting research and risk analysis on **links between smuggling and other crimes** is essential for closing the knowledge-gap in this area, in particular on trafficking in human beings, severe labour exploitation, drugs and other commodities, terrorism. The connections between migrant smuggling and financial crimes should be closely examined, in cooperation with the Financial Action Task Force.

The Commission will extend the existing Eurostat regular **collection of crime statistics** to include data on migrant smuggling, with the support of relevant EU Agencies.

Specific actions

- Deployment of European migration liaison officers in key EU Delegations
- Evaluation, in 2016, and possible revision of EU legislation on Immigration Liaison Officers
- Strengthening of JOT MARE as EU information hub on migrant smuggling

- Further development of Africa Frontex Intelligence Community
- Enhanced monitoring of pre-frontier area with full use of Eurosur
- Stepping up Europol support for detecting internet content used by smugglers
- Including migrant smuggling data within the regular Eurostat collection of crime statistics

3. ENHANCED PREVENTION OF SMUGGLING AND ASSISTANCE TO VULNERABLE MIGRANTS

Raising awareness of the risks of smuggling and of irregular migration is crucial for preventing prospective migrants, including people in more vulnerable situations such as children, from embarking on hazardous journeys, also from transit countries. Evidence gathered from migrants confirms that smugglers use social media platforms widely to share information on the services they provide. It is, therefore, important to develop a **counter-narrative in the media**, including social media, to uncover their lies, with the involvement of diaspora communities in the EU.

The Commission will launch information and prevention campaigns in key countries of origin or transit for migrants, in cooperation with the EEAS and the countries concerned, after assessing the impact of the campaigns that it finances currently in Ethiopia and Niger. These will also provide potential migrants with information about their rights, and about opportunities to enter the EU legally.

Assistance to vulnerable migrants

The EU should step up efforts to provide smuggled migrants, in particular vulnerable groups such as children and women, with assistance and protection. The Commission will launch a consultation, in 2016, and impact assessment on the **possible revision of Directive 2004/81/EC**⁹ on residence permits issued to victims of trafficking in human beings and to smuggled migrants cooperating with authorities.

Helping business operators prevent migrant smuggling

Prevention measures should target businesses most affected by smuggling. **Establishing partnerships with business operators** in the sectors most at risk - transport and shipping - is crucial for enabling them to take adequate measures.

The Commission will develop, by 2017, a **handbook on prevention of migrant smuggling**, including, possibly, codes of conduct for drivers and operators of merchant and fishing vessels. This will present best practices on promoting security measures and adequate controls by public institutions and business operators to prevent clandestine migration. The Commission will also explore the development of **guidelines on migrant smuggling for border authorities and consular services**.

Enhancing the effectiveness of return as a deterrent to smuggling

To deter potential migrants from trying to reach the EU by using smugglers' services, it has to be made clear to them that they will be returned swiftly to their home countries if they have no right to stay in the EU legally. For the moment, smuggling

⁹ Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities. OJ L 261/1, 6.8.2004, p. 19–23.

networks exploit the fact that relatively few return decisions are enforced to attract migrants (39.2% of return decisions were carried out in 2013).

The **effectiveness of the EU system to return irregular migrants** or those whose asylum applications are rejected must be enhanced, in full respect of the standards and safeguards that ensure a dignified and humane return, in line with the EU Return Directive¹⁰. As announced in the European Agenda on Migration, and on the basis of the ongoing evaluation to be concluded this year, the Commission will propose to **amend the Frontex legal basis to strengthen its role on return**.

The **Schengen Information System (SIS)** should be better used to enforce return decisions. The Commission will evaluate the SIS in 2015-2016. In this context, the Commission will explore the possibility and proportionality to introduce return decisions issued by the Member States in SIS, to enhance their traceability. This would make it possible for Member States' authorities to see if an apprehended irregular migrant is subject to a return decision in another Member State. The Commission will also consider making it obligatory for Member States' authorities to introduce all entry bans in SIS, to enable their enforcement EU-wide – under the current SIS legal framework this is optional. Having all entry bans introduced in SIS would help prevent the re-entry into the Schengen area of irregular migrants that were subject to an entry ban issued by a Member State through another Member State.

To ensure that returns are sustainable, the Commission will provide **technical support to countries of origin or transit** for migrants, to help improve their capabilities to integrate the returnees. The EU should also make stronger efforts to convince third countries to take back their nationals that are irregularly present in Europe, which is an international obligation. The Commission will propose the opening of negotiations on EU readmission agreements with the main countries of origin of irregular migrants, where necessary. A specific obligation regarding readmission exists in the Cotonou Agreement with the ACP countries¹¹.

To reduce incentives for irregular migration and the exploitation of migrants, the Commission will take **stronger action against the employment of irregular migrants**. It will enhance the implementation of sanctions for employment of irregular migrants, by improving detection and stepping up inspections. Together with Member States, the Commission will identify targets as regards the number of inspections to be carried every year in the economic sectors most exposed to illegal employment¹² such as the construction, agriculture and horticulture, housework/cleaning and catering and hospitality services sectors.

Specific actions

- Information and prevention campaigns in third countries on risks of smuggling

¹⁰ Recital 29, Directive 2008/115/EC, of 16 December 2008, on common standards and procedures in Member States for returning illegally staying third-country nationals, OJ L 348 98, 24.12.2008, p. 98–107.

¹¹ In accordance with Article 13 of the Cotonou Agreement, each of the ACP States shall accept the return of and readmission of any of its nationals who are illegally present on the territory of a Member State of the European Union, at that Member State's request and without further formalities. Each Member State of the European Union shall accept the return of and readmission of any of its nationals who are illegally present on the territory of an ACP State, at that State's request, without further formalities.

- Launch of consultation, in 2016, and impact assessment on possible revision of EU Directive 2004/81/EC on residence permits
- Development of handbook on prevention on migrant smuggling by 2017
- Development of guidelines for border authorities and consular services
- Evaluation of the EU legal framework on SIS to explore ways to enhance effectiveness of return and reduce irregular migration
- Proposals to open negotiations on readmission with main countries of origin of irregular migrants
- Define targets as regards the number of inspections to be carried every year in the economic sectors most exposed to illegal employment

4. STRONGER COOPERATION WITH THIRD COUNTRIES

Close co-operation with third countries along the entire smuggling route is essential for targeting migrant smuggling and for ending impunity through effective investigation and prosecution. This should be seen in connection with persistent EU efforts to **address the root causes of irregular migration**, in cooperation with countries of origin and transit. The focus should be on support on border management, youth and employment, mobility.

The EEAS and the Commission will launch or enhance the **bilateral and regional cooperation frameworks** with relevant partners focusing on practical measures to address smuggling of migrants, including through the Rabat, Khartoum, Budapest and Prague Processes, the ACP-EU Dialogue, the EU-Africa Migration and Mobility Dialogues and the Malta Summit devoted to migration. Where needed, specific Working Groups – such as the one planned on Niger - will be put in place. Full use should be made of political dialogue mechanisms under the Cotonou Agreement between African, Caribbean and Pacific states and the EU, and the European Neighborhood Policy, as well as relevant multilateral frameworks. Cooperation between the EU and Turkey, which share a common challenge regarding irregular migration, is crucial.

The EU should encourage partner countries to become Parties to the UN Convention on Transnational Organised Crime and the **UN Protocol on Smuggling of Migrants by Land, Sea and Air**. The Commission will provide funding for projects supporting third countries in enacting legislation in line with the Protocol.

Providing capacity building to third countries

As weak law enforcement capacities hamper exchange of information and co-operation, as well as the investigation and prosecution of smuggling offences in third countries, the **transfer of skills and resources** is essential.

The Commission and the EEAS will enhance financial and technical assistance to third countries, to support the development of **national and regional strategies** against migrant smuggling, anti-corruption policies that address the smuggling of migrants, as well as the setting up of integrated **border management systems**. This should include risk analysis, joint border control and border patrolling, increased security of passports, ID and other travel documents, and should enhance the capacity of border authorities to detect fraudulent identity documents. The reinforcement of CSDP missions and operations, such as EUCAP Sahel Niger and EUCAP Sahel Mali, on border management, will help achieve these objectives. Effective coordination

between the various EU tools must be ensured and enhanced as required, including through joint programming and EU Trust Funds.

The Commission will provide substantial funding to help strengthen third countries' **police and criminal justice responses** to smuggling. This will seek to enhance the capacities of individual countries, as well as fostering cooperation between them, through information exchange, joint regional training and joint investigations. The Commission will also provide financial and technical support for starting or improving the **collection, sharing and analysis of data** on migrant smuggling between countries of origin, transit and destination.

Increasing coherence and impact of EU action in third countries

Acting together, combining funds, expertise and respective strengths will help amplify the impact of EU action against migrant smuggling abroad. **Improving the coherence** between the external actions of the EU, Member States and relevant stakeholders is a precondition for maximizing impacts and avoiding duplication.

EU cooperation and coordination on migrant smuggling should be established in priority third countries of origin and transit, by bringing together regularly the Networks of ILOs, European migration liaison officers, EU Agencies' Liaison Officers, Member States' diplomatic representations, CSDP missions and operations, international organisations such as IOM, UNHCR, UNODC or Interpol. Such platforms should also enable full alignment between EU internal and external policies addressing migrant smuggling.

Joint or coordinated planning of EU and Member State support to third countries on migrant smuggling, based on a mapping of actions in key countries and regions, should enable an optimal use of resources.

Specific actions

- Launching or enhancing bilateral and regional cooperation frameworks
- Funding of projects to support third countries set up strategies on migrant smuggling, step up police and judicial responses, develop integrated border management
- Setting up of EU cooperation platforms on migrant smuggling in relevant third countries and regions
- Optimising the use of EU funding through joint or coordinated planning