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NOTE

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| From: | General Secretariat of the Council |
| To: | Delegations |
| Subject: | Countering instrumentalisation of migration and migrant smuggling - Request by the Finnish and Italian Delegations for an AOB item |

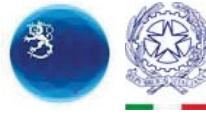
Delegations will find in the annex a note from the Finnish and Italian Delegations concerning countering instrumentalisation of migration and migrant smuggling. The topic will be included as an “Any other business” item on the agenda for the Foreign Affairs Council on 22 April 2024.

**AOB item requested by Finland and Italy for the FAC
(22 April 2024)**

Information about the FI and IT non-paper on Countering Instrumentalisation of migration and migrant smuggling

Migration related challenges extend from the North to the South of Europe. The instrumentalisation of migration by third countries or non-state actors has emerged as a potential threat, especially in a security environment already altered by Russia's continued aggression against Ukraine. At the same time, irregular flows of migrants to Europe, aided by migrant smuggling, have continued at a high level. It is clear that a common European approach and determined action at the EU level is needed to counter these challenges.

Finland and Italy have decided to put forward a joint set of ideas on how to enhance our response to the instrumentalisation of migration as a hybrid tool and migrant smuggling. Our Ministers of Foreign Affairs would like to inform their colleagues about Finland's and Italy's non-paper on this topic.



COUNTERING INSTRUMENTALISATION OF MIGRATION AND MIGRANT SMUGGLING

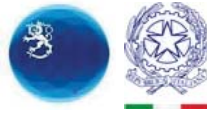
Our countries are facing a variety of challenges and hybrid threats: instrumentalisation of migration, irregular flows and migrants smuggling. In a European security environment already altered by Russia's continued aggression against Ukraine, third countries or non-state actors may be interested in instrumentalising migrants to destabilize our societies and hamper our common endeavor to manage regular flows and asylum procedures. The use of migration as a hybrid tool of influence aims at the erosion of national capability, security, trust and the disruption of decision-making of targeted governments and the European Union as well as NATO as a whole.

Within a common European approach, Italy and Finland wish to foster EU action on fighting against migrant smuggling and instrumentalisation of migration. All measures presented in this paper comply with current international law and obligations under EU legislation.

1. Instrumentalisation of migration

The European Council of December 2023 held a strategic discussion on migration including the instrumentalisation of migration. The European Council conclusions strongly condemn all hybrid attacks, including the instrumentalisation of migrants by third countries for political purposes. The conclusions underline the importance of pursuing a strategic approach to migration that combines increased external action, mutually beneficial comprehensive partnerships with countries of origin and transit, addressing the root causes of migration, opportunities for legal migration, more effective control of EU external borders, resolutely fighting organised crime, human trafficking and smuggling, instrumentalisation of migration as a hybrid threat and stepping up returns.

We recognize the success of the political agreement on the New Pact on Migration and Asylum reached in December 2023 that aims to create an efficient, more



sustainable migration and asylum process for the European Union. Italy and Finland support the introduction of the concept of instrumentalisation in the Crisis Regulation that constitutes an essential part of the New Pact on Migration and Asylum.

We acknowledge the importance of the issue to the sovereignty and national security of relevant Member States. To this end, without prejudice to the on-going legislative process, we should assess and actively promote innovative ways at the EU and national level to respond effectively to instrumentalisation of migration.

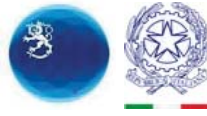
It is important that measures targeting the instrumentalisation of migration take into account the State's right to decide on the security of its external borders and on who has access to its territory.

The EU and NATO should further develop their means of responding to hybrid threats by taking into account the rapidly evolving threat landscape. Building on the existing tools and approaches, such as the EU's Hybrid Toolbox, both organizations should drive for a proactive approach to identify patterns and tactics of the ways in which migration is being instrumentalised as part of a hybrid campaign. This should include assessing relevant motives, objectives and potential combinations of means and multiple domains, in order to respond more efficiently, to raise the costs for malicious actors and to hold perpetrators accountable. The EU and NATO should use all tools available in a flexible manner and develop, inter alia, situational awareness and threat assessments, as well as coordinating strategic communications and promoting resilience measures. Close EU-NATO cooperation, including through regular exchanges and joint exercises is important.

Countering foreign information manipulation and interference is most effective by strengthening our own communication and narratives and communicating proactively. Strategic communication should be directed at third countries, which are being targets of influence communication by malicious actors.

2. Countering migrant smuggling and irregular migration

Italy and Finland support the reform of the European legislative framework on combating migrant smuggling. We welcome the Commission's two new legislative proposals.



Italy and Finland welcome the efforts of the European Commission to strengthen the cooperation with third countries in order to counter migrant smuggling and irregular migration. To this effect, it is essential to conclude strategic partnerships between the EU and non-EU countries that contribute towards developing the law enforcement and border control capabilities but also the migration management competences of these countries. The MoU between the EU and Tunisia provides a good template for further balanced, comprehensive, mutually beneficial partnerships with third countries. We underline the importance of ensuring its full implementation.

Italy and Finland emphasise the need to strengthen further the activities of Frontex and Europol in combating irregular migration and migrant smuggling, including through increased financial support to EMPACT operational cooperation at sea and land and with our partners outside of the EU. We need to be able to harness all the capabilities of Frontex in line with the whole-of-route concept through effectively deploying the Agency in third countries. Capacity building and providing situational awareness, including through an enhanced use of the databases and information exchange tools on migrant smuggling, is crucial for efficient response.

The EU needs to strengthen a comprehensive crisis management approach to address the root causes of instability and insecurity that contribute to irregular migration. Preventing irregular departures often facilitated by smugglers and traffickers goes a long way towards improving the resilience of our migration and asylum system, while also preventing the use of instrumentalised migration as a hybrid tool.

The EU should make better use of CSDP missions and operations to provide strategic advisory and capacity building support to the partner countries to address irregular migration. We need to step up the international cooperation to dismantle the criminal networks of migrant smuggling and trafficking in persons and hold them accountable. Civilian CSDP Missions in Africa, such as EUBAM Libya and EUCAP Sahel Mali, are key tools also in this regard.

3. External borders and the Schengen area

The EU must have full control of its external borders. To this end, we need to enhance our capabilities in securing and controlling our external borders. This is a responsibility shared by each and every Member State.

The Schengen area is one of the most important achievements of European integration. We recognize the need for a continued reform of the Schengen Border Code that will expand the legal instruments available to counter the instrumentalisation of migration at the external borders of the European Union and foster the use of alternative tools to the reintroduction of internal border controls, emphasising their exceptional nature.

4. A European return system

An efficient return policy is crucial to alleviate migratory pressure and deter irregular flows and smuggling. We need a European return system through which we can ensure that only those who have the right to do so can stay in the EU.

We urge the co-legislators to conclude swiftly the legislative process of the recast of the Return directive while aligning it with the New Pact on Asylum and Migration as well as the reformed Schengen Border Code.

For effective returns to take place, we need a network of comprehensive partnerships with key partner countries of origin and transit. The EU also needs to use all available leverages, including development, visa and trade policy, and external relations in a more strategic way to improve concrete readmission cooperation but also to support the creation of a sustainable common return policy.

In parallel, we deem it crucial to strengthen further the EU action on Assisted and Voluntary Returns (AVR), as it provides migrants stranded in transit countries a safe, dignified and sustainable return to their country of origin, together with reducing the migratory pressure on the host countries and disrupting the business opportunities of the trafficking networks.