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Subject : Advances made in combating illegal immigration

Delegations will find attached a report from the Presidency on advances made in combating illegal immigration.

ADVANCES MADE IN COMBATING
ILLEGAL IMMIGRATION

1. INTRODUCTION

During the first half of 2002 it has fallen to Spain to occupy the Presidency of the Council of the European Union.

In the area of Justice and Home Affairs, the Presidency committed itself to giving continuity to the measures initiated during the preceding Presidencies and to leading discussions in order to attain the objectives set by the European Councils at Tampere and Laeken.

The main objective of the Amsterdam Treaty is to ensure that the European Union is an area of liberty, security and justice, within which the progressive shaping of an immigration and asylum policy has an important place. Such a policy should have a global balanced focus and should take account of the need to control the external borders effectively in order to combat illegal immigration.

This global framework, in accordance with the Conclusions of the European Council of Tampere, should be guided by four fundamental premises:

- Adequate management of migratory flows,
- The search for fair treatment for third-country nationals,
- Collaboration with the countries of origin and
- The establishment of a common European asylum system.

Progress on these four guidelines underpinned the drafting of the Spanish Programme of Objectives and Priorities of the Council of the European Union.

At the same time, the renewed impetus provided by the European Council in Laeken held on 14 and 15 December 2001 was very much in mind.

Priority has been given to those instruments which the Laeken Conclusions identified as needing to be adopted most urgently, such as the Comprehensive Plan to Combat Illegal Immigration and Trafficking in Human Beings.

This document refers to the principal measures taken under the Spanish Presidency to approve that Comprehensive Plan and the measures contained in it.

Such measures are in addition to those provided for under the Plan for Integrated Management of the External Borders of the Member States of the European Union, drawn up by the Presidency on the basis of the Commission Communication of 7 May 2002 on the Integrated Management of the External Borders of the Member States of the European Union, as well as the Feasibility Study for the Creation of a European Border Police Force and the Police and Border Security Workshop (under the OISIN programme).

They are also in addition to the measures contained in the Council conclusions on cooperation on the joint management of migratory flows, of which European Union policy on migratory flows in its external relations forms part.

2. ADVANCES MADE

As far as immigration policy is concerned, important advances have been made under the Spanish Presidency, always underpinned by the fundamental idea of adequate management of migratory flows which includes both the legal regulation of same and combating illegal immigration, in particular, the trafficking of human beings, all of this being underpinned by the idea of cooperation with the countries of origin.

With a view to attaining adequate management of migratory flows and combating clandestine immigration, the Council of Justice and Home Affairs Ministers of 28 February 2002, adopted a Comprehensive Plan to Combat Illegal Immigration and the Trafficking in Human Beings in the European Union, based on the Commission Communication of 15 November 2001 on a common policy on illegal immigration.

Previously, this Plan was discussed at the informal Ministerial Meeting held in Santiago de Compostela on 14 February 2002.

The Plan was designed as a programmatic guide for planning initiatives and measures which may be taken to combat the phenomenon of illegal immigration effectively.

The Plan has a scoreboard distinguishing between measures for implementation in the short term (within a year at most) and in the medium term (within three years at most).

To summarise, the main initiatives included in the Plan are structured according to seven main points:

Firstly, visa policy. In this sense, the Plan seeks:

- to increase the security of visas and other travel documents, so as to avoid forgery and fraudulent use, and to periodically check the list of third states whose nationals are included or exempt from visa requirements.
- to introduce a Common System of Visa Identification, for exchanging information.

The second point of the Plan is to promote the exchange and analysis of information on illegal immigration.

Third, the Plan tackles a series of measures which precede the crossing of borders, to be adopted in and with the countries of origin.

- to promote coordination between our liaison officials in those countries.
- to cooperate with those states to combat trafficking and trade in human beings and deal with their readmission obligations, with technical and financial aid.

- to develop campaigns to raise awareness of the risks of illegal immigration.

The fourth point of the Plan concentrates on improving the quality and effectiveness of border controls by means, inter alia, of:

- A system of risk assessment.
- A viability study on improving controls of maritime borders, in accordance with an Italian proposal.
- Harmonisation of the training of officials responsible for guarding borders.

Other aspects dealt with by the Comprehensive Plan are readmission and repatriation policies:

- Progress towards the establishment of common procedural standards for carrying out repatriations.
- Negotiation of readmission agreements with new countries.

In sixth place, the operative role of Europol in combating the trafficking and trading of human beings will be strengthened.

Finally, the Plan deals with repressive measures against such crimes. These involve progress in:

- providing victims with the necessary protection and assistance,
- combating employers who illegally employ non-member country nationals who are illegal residents,
- seizing the earnings derived from trafficking and trade in human beings and confiscating the means of transport used,

- and obliging carriers to pay the repatriation costs of foreigners who do not meet the requirements for legal entry.

This plan has already given fruit. Some of the actions and measures included in it have been developed during the Spanish Presidency.

- Progress has been made in the gradual unification of the system of visas and other travel documents, with new security measures which will boost the effectiveness of the fight against illegal immigration:
 - The Council of General Affairs, held on 18 February, adopted two Regulations. The first amends Regulation (EC) No 1683/95 laying down a uniform format for visas and the second establishes a uniform format for forms for affixing a visa issued by Member States to persons holding travel documents which are not recognised by the Member State drawing up the form.
 - In the Council of Justice and Home Affairs Ministers of 25 April, these standards were complemented by the Council Decision approving a uniform visa application model.

The same Council also reached a general approach on the Regulation laying down a uniform format for residence permits for third-country nationals. This Regulation is expected to be formally adopted by the Justice and Home Affairs Council on 13 June 2002.

- The European Union's Schengen catalogue on external border controls, removal and readmission: recommendations and best practices, was adopted on 28 February. A Decision on the revision of the Common Manual of Border Controls and its Annexes was also adopted by the Justice and Home Affairs Council on 25 April.

- Furthermore, in-depth consideration has been given to the mechanisms for solving the situation of foreigners who do not comply with or who have ceased to comply with terms of entry or residence, by approving certain Council conclusions on 28 February about obtaining travel documents for carrying out repatriations.

On the other hand, and with a view to financially supporting certain actions proposed by the Member States, to promote cooperation and coordination among national Administrations and the transparent application of Community legislation, in the sphere of immigration, asylum and borders, the Council of Justice and Home Affairs Ministers of 25 April reached general agreement on the approval of the ARGO Programme, which will be valid for five years and have a budget of € 25 million. The ARGO Programme is expected to be formally adopted by the Justice and Home Affairs Council on 13 June 2002.

It must be mentioned that at that same meeting, certain concrete measures were adopted in compliance with the Comprehensive plan:

- the first Council conclusions on Illegal Immigration and Human Trafficking by Sea. These conclusions seek an integral response of the European Union to the arrival of immigrants by sea, with measures such as the carrying out of a study to improve the control of maritime borders, the prevention and adoption of operative measures, in particular exchanges of information and the firm request to the states of origin and transit that they combat trafficking and trade in human beings and re-admit illegal immigrants who leave their coasts, among others.

In developing these conclusions, it is planned that the Council of Justice and Home Affairs Ministers, at their meeting of 13 June, approve conclusions on Measures to Prevent and Combat Illegal Immigration, particularly in relation to third States which do not wish to cooperate with the European Union in combating illegal immigration.

- As instructed by the Heads of State and Government, meeting in Laeken, a list of third countries with whom new readmission agreements have to be negotiated, was drawn up, the Council of 25 April last having approved conclusions setting out the criteria for drawing up such list.

- In April and May, two risk assessment operations were carried out in the main airports of the European Union and of some candidate States; these were known as operations RÍO I and RÍO II, the results of which will make it possible to learn more about the methods, routes and other procedures used to bring immigrants into the European Union by illegal means and to deepen cooperation between the border control authorities of the Member States and Europol.

- In this same line of cooperation, during this half-year the first meeting took place between the Strategic Committee for Asylum, Immigration and Borders and the heads of the Member States' Border Control Departments.

The Feasibility Study on the Creation of a European Border Police Force, drawn up under Italian leadership by experts from Germany, France, Belgium, Spain and Italy, was presented at a Ministerial Conference held in Rome on 29 and 30 May 2002 and co-chaired by Italy and Spain. The Study proposes a series of measures aimed ultimately at coordinating action by Member States to manage their borders.

Finally, as pointed out in the Tampere European Council, achieving adequate management of migratory flows requires promoting cooperation with the countries of origin, transit and destination of illegal immigration. Accordingly, the Laeken European Council considered that a true immigration policy, *inter alia*, requires instruments to integrate the policy of migratory flows into the foreign policy of the European Union.

Consequently, European Union Action Plans with third states have been promoted, with particular regard to dialogue with Morocco within the Working Party on Social Affairs and Migration which held its first meeting in Rabat on 12 March 2002.

Furtermore, the High-level Working Party on Asylum and Migration has decided to send experts to Morocco to assess a border-control programme.

In addition, the external relations of the European Union have intensified over these months, with the following meetings having taken place at ministerial level:

- Meeting of the Ministers of Justice and Home Affairs of the European Union with the Ministers of the candidate States. Brussels, 28 February.

On this occasion the candidate States were given the Catalogue of Recommendations and Good Practices concerning the Control of external borders and procedures of expulsion and readmission in the Schengen area, once it had been approved by the Council.

- ASEM Ministerial Meeting on Europe-Asia Migratory Flows. Lanzarote, 4-5 April.

The ASEM Ministerial Conference on cooperation on the management of migratory flows between Asia and Europe was held on 4 and 5 April in Lanzarote.

This was the first meeting of ASEM Ministers to deal with migration matters.

Agreement was reached on a Declaration which underlined the need for cooperation between Europe and Asia in organising migratory flows in a comprehensive fashion and, to that effect, it was agreed that a network of national points of contact would be set up and that these would serve as a reference for future actions within the ASEM process.

- Meeting of the Justice and Home Affairs Ministers with Russia. Luxembourg, 25 April.

This meeting took place on Thursday 25 April, separate from the Justice and Home Affairs Council.

Among other matters, within the area of asylum and immigration, the topics of migration, border management and readmission were discussed.

Furthermore, a meeting of the Troika of the Strategic Committee on Immigration, Borders and Asylum with the Ukraine was held in Brussels.

- Euro-Mediterranean Ministerial Conference. Valencia, 22–23 April.

As an Annex to point 18 of the Valencia Action Plan, the regional programme for cooperation in the areas of justice, the fight against drugs, organised crime and terrorism and for cooperation in the area of the social integration of immigrants, migration and the circulation of persons was approved.

This is a framework document which will serve as a basis for the Commission to launch a cooperation programme, with a budget of € 6 million in 2002 provided by MEDA funds.

It is planned to hold a Euro-Mediterranean Ministerial Conference on "Migration and the Social Integration of Immigrants" in the second half of 2002.

3. PERSPECTIVES:

In recent times, the massive arrival of immigrants in an irregular situation, brought by networks dedicated to the trafficking and exploitation of human beings, has become one of the main causes for concern to the European Union. This highlights the key importance to the European Union and its Member States of legal and orderly management of migratory flows, in cooperation with the countries of origin and transit.

The Comprehensive plan to Combat Illegal Immigration provides the European Union with a valuable tool for properly managing migratory flows and fighting illegal immigration.

Hence, renewed impetus must be given to approving the measures provided for in the Plan in accordance with the proposed calendar.

In addition, the Plan for Integrated Management of the External Borders of the Member States of the European Union is due to be approved by the Justice and Home Affairs Council on 13 June 2002 and the implementation of the conclusions on cooperation in the common management of migratory flows is expected to be approved by the General Affairs Council on 17 June.

The following measures under the Plan are of particular importance and should be given maximum priority:

- Introducing a Common Information System for Visa Data on the basis of the guidelines laid down by the Council. The Commission must present the feasibility study for introducing this System by March 2003.

- Asking the Commission to consider revising the Regulation concerning the list of nationals from non-member States who are subject to or exempt from a visa requirement and to submit proposals to that end if appropriate.

- Speeding up the conclusion of the readmission agreements currently under negotiation and approving new briefs for negotiating such readmission agreements, whilst inviting the Commission to conclude the negotiations in progress (on agreements with Morocco, Macao, Russia, Pakistan, Sri Lanka and Ukraine) and to submit new briefs in respect of the countries determined by the Council of Justice and Home Affairs Ministers (Albania, Algeria, Turkey and China).

- Examining expulsion and repatriation policies in greater depth. On the basis of the discussions on the Commission Green Paper on a Community return policy on illegal residents submitted on 10 April 2002, appropriate proposals could be made for setting up a programme for the return of illegal residents.

- Formally adopting and immediately transposing into the laws of Member States the Framework Decision on the Treatment of Persons and the Framework Decision and Directive on Illegal Trafficking in People.

- Strengthening the exchange of information between the police services of the Member States and Europol with regard to the trafficking of human beings. It is believed that the fight against this type of crime should be one of the priorities of Europol, in accordance with the new Priorities set by the Council of Ministers of Justice and Home Affairs.

- Studying the possibility of the possible use by the security authorities of information from consultation procedures in respect of aliens.

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