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**REPLIES OF THE COMMISSION TO THE SPECIAL REPORT OF THE
EUROPEAN COURT OF AUDITORS**

**ASYLUM, RELOCATION AND RETURNS OF MIGRANTS: TIME TO STEP UP
ACTION TO ADDRESS DISPARITIES BETWEEN OBJECTIVES AND RESULTS**

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REPLIES OF THE COMMISSION TO THE SPECIAL REPORT OF THE EUROPEAN COURT OF AUDITORS

“ASYLUM, RELOCATION AND RETURNS OF MIGRANTS: TIME TO STEP UP ACTION TO ADDRESS DISPARITIES BETWEEN OBJECTIVES AND RESULTS”

EXECUTIVE SUMMARY

I The Commission would like to specify that the peak of the migration crisis was in 2015/16 and concerned only the Eastern and Central Mediterranean route. Following the entry into force of the EU-Turkey Statement in March 2016 and the significant drop of arrivals in Italy since July 2017, numbers have now indeed returned to pre-crisis levels.

III Common Commission reply to paragraphs III, V, VI, VII and VIII.

It is important to underline that the substantial EU support provided in financial and operational terms by the Commission and relevant EU Agencies has made a significant difference. Without this support the situation would have been even more difficult on the ground in the frontline countries, notably Italy and Greece. When considering this EU support, it should also be borne in mind that the final legal and political responsibility for managing migration flows on their territories remained solely with the Italian and Greek authorities. Neither the Commission nor the EU Agencies have executive powers in Member States and could not replace the Greek or Italian authorities in their duties and with regard to the shortcomings in their national asylum or return procedures. Although this goes beyond the scope of an audit of the EU support action, some assessment of the performance of the Greek and Italian authorities, in particular on how they received and implemented support would provide a more complete picture.

IV In relation to the recommendations issued in the 2017 special report, the Commission reiterates that the recommendation that, according to the ECA, is not implemented, lies with the Member States. The Commission will continue providing financial and operational support to Italy and Greece but cannot replace the national authorities. In relation to the relocation schemes, the Commission would like to highlight that they were highly successful since, as further explained in its replies to paragraphs 35 to 53, 96% of the relocations requests sent to the receiving Member States and associated countries under the temporary emergency schemes resulted in effective relocation.

V The Commission supported Member States, notably by increasing the emergency assistance, which complements the multi-annual national programme. However, emergency assistance was not included in the general performance management framework. This will be improved in the next multi-annual financial framework (MFF).

IX The Commission accepts all of those recommendations which apply to it. See the Commission`s replies at the end of the report.

INTRODUCTION

01 See Commission reply to paragraph I.

02 The Commission considers that other Member States not located at the frontline such as Germany, Sweden or the Netherlands, have also carried a heavy burden as they were often the ultimate target destination of migrants entering the EU through Italy or Greece.

05 The hotspot approach is the same in Italy and Greece, which consists in the identification, fingerprinting, debriefing and channelling of the case to the appropriate procedure (be it asylum or return). The difference is the follow up procedures (asylum/return), which in the case of Greece are implemented on the islands since Greece applies a geographical restriction that is a key component in the implementation of the EU-Turkey Statement.

08 EU funds such as the ERDF and ESF also provide substantial funding in the field of migration, with particular reference (but not only) to integration measures. Moreover, the ISF (Borders and Visa) also addresses migration related matters, although in most cases indirectly.

11 The Commission highlights the important role that EASO plays also on relocation (information provision, registration, interview, best interest of the child assessment, preparation of the relocation file and support to Dublin unit).

15 See Commission reply to paragraph III.

AUDIT SCOPE AND APPROACH

16 The Commission stresses that asylum and return procedures are the responsibility of national authorities (see Commission reply to paragraph III).

OBSERVATIONS

23 The Commission considers that all recommendations have been implemented, as far as support from the Commission is concerned. The implementation of the remaining recommendations lies with the Member States. See Commission replies to paragraphs IV and 25 to 27.

25 The Commission would like to highlight that there are differences in Italy and Greece regarding the follow-up procedures to the hotspot approach. The geographical restriction on the Greek hotspot islands, a key component in the implementation of the EU-Turkey Statement, has had an impact in the living conditions in the Greek hotspots.

The Commission has provided significant funding to increase capacity, upgrade infrastructure and improve living conditions (including for Unaccompanied minors (UAMs)) and has repeatedly called for an acceleration of the asylum procedures, a sustainable and significant increase of returns to Turkey, and a more expedient use of existing funds. In addition, the Commission has provided, and will continue to do so, all necessary funds to cover infrastructure and upgrading of hotspots in Greece, has supported the transfer of vulnerable applicants from the islands to the mainland, as well as the creation of increased capacity in the mainland. However, the responsibility to implement the asylum procedure lies with the Greek authorities, and not with the Commission (see Commission reply to paragraph III).

Box 1 Unaccompanied minors in the hotspot on Samos

The Commission shares the Court's assessment regarding the situation of UAMs on Samos, and more generally in Greece. The Commission has provided significant funds and continues to provide resources to expand the capacity of Greek hotspots and improve living conditions for minors and vulnerable applicants, e.g. the creation and expansion of safe zones, shelters in the mainland, maintenance and upgrade works in the RICs, provision of all necessary non-food items. The dialogue between the Commission and the Greek authorities and the efforts to improve the situation continue. Greece submitted a UAMs strategy to the Commission, which is currently being updated. The responsibility to establish a sustainable system for UAMs lies with the Greek authorities, and not with the Commission (see Commission reply to paragraph III).

27 The Commission reminds that despite not being competent for coordinating Search And Rescue (SAR) events or assigning part of the disembarkation, it has done its utmost to call on Member States to address the humanitarian imperative, which through its proactive coordination, has made a concrete difference on the ground to facilitate disembarkation and find solutions for the voluntary distribution process of disembarked migrants, paying particular attention to minors.

28 Taking into account the seasonal pattern of arrivals and the need to plan deployments strategically ahead, the Commission considers that agencies should be as flexible as possible within their respective mandates in their response to the needs on the ground. However, even at low arrival periods, permanent and regular presence of agencies on the ground is still needed, as the series of ad-hoc disembarkations during 2019 summer has clearly demonstrated. Furthermore, the current European Border and Coast Guard Agency (Frontex) deployment levels have been more than halved compared to 2016, year of record arrivals to Italy.

Box 2 Deployment of Frontex experts to Italian hotspots

Permanent presence on the hotspot remains essential given the unpredictability of flows (combined with their seasonality), as shown by ad-hoc relocation cases following 2019 disembarkation events. In addition, it is very complicated to redeploy experts, which are largely provided by Member States. The Commission supports a flexible approach with a combination of permanent and mobile teams who can cover disembarkations in the South of Italy.

29 The Commission shares the ECA's view and underlines that the Member States that provide the experts decide on the length of their deployment and the persons they deploy.

30 See Commission reply to paragraph 29.

31 The Commission welcomes the ECA's assessment.

32 In relation to the numbers in Figure 4 for CAT 1, the Commission underlines that Eurodac does not currently count applicants but applications. Furthermore, the Commission notes that the numbers in question concern the whole of the EU, hence involving all arrival routes and

all Member States. Therefore, for these numbers, the discrepancies could also be explained for example by delays by certain Member States when transmitting fingerprints, due to various reasons linked, among others, to the methods of taking fingerprints.

33 The Commission acknowledges that between 2015 and March 2016 there was a high degree of secondary movements in the EU; as a result, the Commission proposed the establishment of the hotspot approach and urged Italy and Greece to develop roadmaps to address structural problems as a pre-condition to relocation.

34 The Commission refers to paragraph 32, relating to registration and fingerprinting in Greece and Italy, which is a separate issue to the functioning of Dublin transfers.

36 The ceiling, initially of 160,000, and then lowered to 98,256, was the result of evolving political negotiations supported by an analysis of the forecast of migratory flows based on the arrival trends, as shown in the recitals of the Council Decisions on relocation. The Commission highlights the extraordinary impact that the EU-Turkey Statement had in reducing the flows, which was a game changer that altered all forecasts regarding arrivals via the Eastern Mediterranean route.

37 The Commission agrees that a clear criteria in order to allow for a quick assessment was key for the relocation scheme to function. The 75% EU-wide average recognition rate helped to establish a uniform criteria for the pool of persons considered to be in “likely” need of international protection.

38 96% of the relocations requests sent to the receiving Member States and associated countries under the temporary emergency schemes resulted in effective relocation.

39 The Commission highlights that this financial support only applied to relocation of asylum applicants.

41 The Commission notes that 96% of the relocations requests sent to the receiving Member States and associated countries under the relocation schemes have resulted in effective relocation.

The Commission further considers that the effectiveness of the scheme as designed by the Council can only be measured with reference to *potentially eligible* asylum applicants.

This means referring only to:

(i) asylum applicants of a nationality with an average EU asylum recognition rate of 75% or higher, rather than to all asylum seekers;

(ii) asylum applicants actually available for registration in Italy and Greece during the relevant reference period, rather than to the number of arrivals: most migrants did not want to remain in Greece, but continued their journey from Greece onwards. Some applicants were

also subject to transfers according to the Dublin Regulation¹. Finally, persons arriving to Greece after the entry into force of the EU-Turkey Statement were excluded from the scheme.

The relocation schemes were successful in alleviating the pressure on the Italian and Greek asylum systems from a significant proportion of the applications of persons in clear need of protection (and thus also alleviating the long term pressure associated with integration).

42 The Commission would like to point out that the reference period to which the Relocation Decisions² applied was subsequently shortened in practice due to the effect of the EU-Turkey Statement. As Greece was the beneficiary of the scheme, it could decide who to put forward for relocation, and Greece decided not to include eligible applicants for relocation when they had arrived after the entry into force of the EU-Turkey Statement.

44 The Commission refers to its reply to paragraph 41 regarding the measurement of the effectiveness of the scheme and having regard to the ceiling of 98 256 set by the Council, irrespective of the number of arrivals during the reference period.

The Commission notes that 96% of the relocations requests sent to the receiving Member States and associated countries have resulted in effective relocation.

The design of the schemes was always only meant to apply to asylum applicants in need of international protection, present in Greece and Italy during the relevant period. With the adoption of the EU-Turkey Statement, the group of eligible asylum applicants diminished considerably.

45 There were many factors that influenced the final number of those relocated, including the positive impact of the EU-Turkey Statement on the forecasted arrivals. After the entry into force of EU-Turkey Statement, the asylum applicants had to stay in Greece, and their only option to move to other EU countries was relocation. The mass pre-registration in Greece helped to accelerate access to the asylum procedure. Without it, relocation would have taken longer, but would not have affected the pool of asylum seekers eligible for relocation and the number of those who were finally relocated. Almost all eligible asylum applicants were relocated.

The mass pre-registration exercise showed that there were much less persons in Greece at the time, and that the vast majority had moved on to other Member States.

Please see also Commission reply to paragraph 48.

46 Many migrants wanted to choose their country of destination, especially while they could still travel out of Greece. While the Commission acknowledges that it was difficult to

¹ Regulation (EU) No 604/2013 of the European parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast).

² Council decision (EU) 2015/1523 of 14 September 2015 and 2015/1601 of 22 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and Greece.

organise the provision of information when the number of arrivals were so extraordinary, it wishes to highlight that as of March 2016, the information provided was more systematic and targeted. Furthermore, information provision was improved and tailored to each specific group of migrants, as obstacles were identified and significantly improved during implementation.

47 At the beginning of the scheme there were actually more pledges than applicants registered. Therefore, at the beginning of the scheme, there was no dissuasive element. Similarly at the peak of the scheme (summer 2017), there were more pledges than applicants to be relocated.

48 When assessing the temporary emergency schemes, the Commission considers it indispensable to clearly distinguish between (i) the design of the schemes as politically decided by the Council and (ii) the implementation of the schemes, which was actually very successful, with an overall 96% of eligible persons having been relocated as explained in the Progress report on the Implementation of the European Agenda on Migration, dated 16 May 2018.

Box 3 Operational weaknesses in the relocation process

The operational obstacles were to be expected from a system that was completely new and intended to provide an emergency response. The Commission developed protocols for the implementation of the Decisions, which were endorsed by Member States, EU Agencies and International organisations, to address many of the operational questions. This led to a significant acceleration of relocation and of the implementation, so that at the peak of the scheme, it was possible to relocate 3,000 people in a month (the scheme started relocating 87 a month).

These protocols are now being used *mutatis mutandi* for the ad-hoc voluntary relocations.

51 The Commission notes that only four Member States reported high abscondance rate. The majority of relocated applicants remained in the country of relocation.

52 The Commission carried out a constant monitoring of the implementation of the scheme, including 15 reports on relocation and resettlement up to May 2018, and thus does not consider that further evaluations are needed.

The Commission wishes to highlight that Figure 7 only presents data from four Member States (and that the data from Estonia also includes resettlement).

58 The needs have evolved and are less focused on first reception capacity. However, urgent needs are still existing due to the high pressure on asylum systems. They require establishing permanent accommodation schemes when they were not (sufficiently) existing, devising new and systematic integration strategies and increasing returns. Emergency assistance projects in these areas are always actions that need to start at very short notice, although they contribute to improving the Member State's system in the mid to long term, which is in accordance with the objectives of AMIF and contributes to the sustainability of the funding provided.

60 In the next multiannual financial framework, the Commission proposed that emergency assistance will be included in the thematic facility which is subject to the general control and monitoring framework of the future Funds.

Box 4 Example of a project with no output and outcome indicators

For EMAS IT-1, the recommendations made by the evaluation committee were followed by the project officers and transmitted to Italy. During the project preparation, the inclusion of relevant indicators was discussed at local level between the competent Italian authorities and DG HOME, but there was a strong reluctance from Italian authorities to include such indicators.

Finally it was judged more important to proceed with the signature of the grant agreement, even in the absence of good output indicators, in order to guarantee the impact of the action, even if this impact could not be well measured.

During project implementation, monitoring consists first of all in the review of progress reports. This provides DG HOME with an opportunity to correct the absence of adequate indicators by requesting further clarifications and clear operational information. For this particular project, a first progress report was received in May 2019. The Commission also does monitoring visits to check upon result and impact of projects.

In general, the Commission supervised the actual development of the projects closely, including through operational verification visits.

61 The Commission welcomes the ECA's statement that emergency assistance projects did not overlap with National Programmes, or with EASO and Frontex support.

62 Please see Commission reply to paragraph 58.

Box 5 EMAS' shift from emergency response to longer-term structural support

For EMAS GR-2, when the Commission awarded the emergency assistance, the responsible authority was still not fully functioning and operational and therefore the pre-financing payments under the national programme could not be made. As the national programme could not be implemented to help improving the crisis situation on the ground, the award of an emergency assistance grant was duly justified.

For the project EMAS IT-1, the Commission considers that there was an emergency need (urgent and specific needs for which no additional budget was available under AMIF). In the framework of the national programmes' Mid-term review exercise of 2017, the IT/EL roadmaps submitted in 2015 and on the basis of the Commission's recommendations on the resumption of Dublin Transfers in the case of Greece, certain urgent and specific needs had been identified for which no additional budget could be made available for AMIF national programmes.

The need to increase equipment capacities and interpretation/cultural mediation in the sections of Questure handling asylum applications was raised by the Italian authorities with DG HOME in November 2017. Only in June 2018, when the new Government took office, a

project proposal was presented which was extensively discussed. These factors delayed the development and finalization of the EMAS IT-1 application for funding. The application has been awarded in July 2018 followed by signature of the Grant Agreement in October 2018. The project is ongoing. First progress report has been sent to DG HOME in May 2019.

63 A structured mechanism with allocation keys to countries will not solve the situation of having emergency needs beyond the available budget because these needs constantly evolve.

The Commission considers that the mechanisms in place are sufficient to fairly allocate emergency assistance among Member States. The Commission is continuously reviewing the needs particularly of frontline Member States.

There are many ways to address insufficient budget availability like prioritisation within the national programme as well as among application for emergency assistance, or requesting more budget.

64 The Commission adds that, for the future MFF, it is planning to define a set of general parameters for the allocation of emergency assistance to the Member States.

The European Commission intends to introduce such general parameters in the future work programmes within the Thematic Facility under the Home Affairs Funds of the next MFF. It should however be noted that the Commission estimates that such methodology will be introduced by mid-2021.

Box 6 Examples of AMIF EMAS projects that did not fully achieve their objectives

In relation to EMAS IT-3, the Commission would like to highlight that another reason for the lower occupancy rate by relocation candidates in the dedicated reception centres for relocation covered by the emergency assistance project was due to the fact that some of these specialised centres hosted vulnerable asylum seekers with specific needs, which for this reason could not be easily transferred to other centres in order to free up the space for relocation candidates.

68 The multiannual strategic planning of the AMIF national programmes is well structured. What can be improved are the mechanisms whereby the National Programme can be adapted more swiftly to the rapidly changing needs linked to the migratory patterns and the effects of the political decisions by the governments in place.

69 Please see Commission reply to paragraph 68.

71 The two projects having been implemented under the AMIF national programme, the Commission was not involved in their selection, nor in the preparation of the related grant agreements (signed by Italy's AMIF Responsible Authority with the concerned project beneficiaries), during which any possible geographical overlapping could have been detected and addressed.

72 The Commission would like to point out that Frontex operational support for the Member States and AMIF national programmes are supporting the same type of forced return activities, but in a complementary way.

Having the possibility to organise return operations financed through AMIF national programmes gives Member States the flexibility needed in order to perform returns when and where the Agency cannot provide support or where Member States consider that the involvement of the Agency is not needed.

73 Concerning the reason of this delay in Greece, please see the Commission's reply to Box 5.

76 The Commission nevertheless points out that the Delegated Regulation (EU) 2017/207, establishing the Common Monitoring and Evaluation Framework (CMEF) was adopted on 3 October 2016. It included the evaluation questions for both funds as well as lists of common results and impact indicators. It is important to note that fund specific legal bases already included common indicators for the measurement of the specific objectives, therefore a scheme was available from the start and is used to monitor the performance of the national programmes through the annual implementation reports.

77 For the result and impact indicators as well as for the common indicators, which are part of the national programmes, the baseline value was set at zero as the programmes were considered to be new, so that the fund's contribution could be measured in isolation.

Setting targets was left to Member States to reflect the national situation.

78 In the next MFF, the Commission has proposed that emergency assistance will be included in the thematic facility and subject to the general control and monitoring framework of the future Funds.

In the Commission proposal, the performance framework will be reviewed and will include both output and result indicators. Milestones will be set for output indicators and targets are set for output and results indicators. This is common for all shared management funds covered by the Common Provisions Regulation. The baseline value can be zero for output indicators only. Emergency assistance can be implemented in any management mode. If emergency assistance is implemented in direct management, this monitoring framework will also be used.

79 To address the limitations of Regulation (EC) No 862/2007, the Commission tabled an amending proposal in May 2018. It aimed at meeting the need for more detailed, frequent and timely statistics on asylum and managed migration, notably on unaccompanied minors and returns. While political agreement was reached in the trilogue on 31 January 2019, the compromise was never confirmed in Coreper. Some Member States were reluctant to consent to the compromise, arguing that it would still mean significant additional burden. The European Parliament adopted on 16 April 2019 its report in first reading. Negotiations with the new European Parliament and the Council are set to restart in the second half of the year.

80 In order to limit the additional burden on Member States, the Commission proposal (COM(2018) 307 final) focused on the most important improvements needed. The proposed amendments were largely based on existing voluntary data collections developed with and conducted by most national authorities.

81 Nevertheless, Eurostat collects monthly data on pending asylum applications. This includes the number of persons with pending applications at all instances of the administrative and/or judicial procedure.

EASO reports every month the number of cases pending at first instance, broken down by duration (< 6 months and > 6 months). Data collection is being improved thanks to the Early Warning and Preparedness system, where data is collected from Member States.

82 See Commission reply to paragraph 80.

87 During the programming (policy dialogue) and the approval, including revision, of the AMIF national programmes, there is an established internal consultation procedure within DG HOME. Such procedure includes the involvement and consultation of policy units, in charge also of relations with the Agencies, in the policy dialogue as well as in the approval process. In relation to operations in Greece and Italy for 2019, DG HOME put detailed questions to EASO to ensure, among others, complementarity of actions with AMIF sources. Finally, in view of better coordinating activities in Greece, EASO has been invited to participate in the monthly Financial Plan 2019 Steering Committee meetings held in Athens, which also look into the implementation of the national programme.

Furthermore, the Commission also assesses the agencies operational plans to avoid any overlaps with EMAS or specific actions under the national programmes.

89 The Commission wishes to qualify that EASO's operations in Greece are twofold: supporting structural reforms, to create a robust, resilient and crisis-proof system, and providing operational support, e.g. implementing core tasks in the hands of Member States, as part of a structured migration management support system of the EU, according to the fundamental principle of solidarity (as reflected in the proposal for the EUAA). For the time being, it is clearly premature to consider an exit of EASO from Greece, given the situation in this frontline Member State. However, the EASO Operational Plans include further capacity building measures, which aim at increasing ownership and capacity building of the Greek authorities.

92 The Commission agrees with the ECA's assessment and reminds that it has been constantly calling onto Member States to nominate experts.

Box 7 Operational issues affecting EASO support to asylum procedures on the Greek islands

The Commission agrees with the overall assessment for the relevant time period presented by the ECA, which is in line with the recommendations presented in its regular reports on the European Agenda on Migration. The need for a more homogenous approach to vulnerability assessments has been raised by the Commission at different occasions, and this has led to (i) the creation of a new template and manual in 2018, (ii) Greece issuing instructions on this matter in April 2019, and (iii) EASO and GAS having agreed on amendments to their joint SOPs and workflows in June 2019.

96 Whilst it is correct that Frontex return support and AMIF national programmes are supporting the same type of forced return activities they do in a complementary way. The system was designed to allow for flexibility so that the Member States can choose the most convenient system and increase the number of returns, in line with the EU's policy to render return more effective.

Having the possibility to organise return operations financed through AMIF national programmes gives Member States the needed flexibility in order to perform a return when and where Frontex cannot offer support.

Frontex shall fulfil in full its potential to offer assistance in return related activities, by using available EU financial instruments in a flexible and complementary way.

The increased support provided by Frontex allows Member States to redirect funds available under AMIF to address other relevant needs.

97 See Commission reply to paragraph 87 – similar procedures apply to Frontex.

The Commission points out that Frontex is consulted during the programming of AMIF return actions.

During the programming (policy dialogue) and the approval, including revision, of the AMIF national programmes, there is an established internal consultation procedure within DG HOME. Such procedure includes the involvement and consultation of policy units, in charge also for relations with the Agencies, in the policy dialogue as well as in the approval process.

Moreover, the Member State is obliged to have in place the appropriate mechanisms ensuring complementarity between the different funding tools and sources. In case of Greece, the Hellenic Police is the same beneficiary for both AMIF and Frontex tools and is responsible to coordinate the complementary support of both tools.

105 The Commission shares the ECA's assessment and points out that it has repeatedly requested Greece to adopt a more strategic approach to asylum and more broadly migration management making use of all possibilities under EU and national law. Furthermore, the Commission continues supporting via EMAS the Greek asylum service.

Box 9 Lack of working space at the Greek Asylum Service

The Commission notes that there are additional options available (e.g. double shifts and increased productivity through a more strategic approach). The Commission would like to stress that it continues supporting GAS via EMAS and as part of this support, it has requested GAS in cooperation with EASO to present a plan to significantly reduce the backlog in the next couple of years.

107 The Commission notes that EU law currently places the main responsibility for the examination of asylum applications on the first EU country of entry; this is the reason of increased support to Greece, including financially, operationally and technically, with EASO and the Commission.

108 The Commission notes that it has granted extensive funding to support the asylum procedures on the Greek islands.

Box 10 Issues affecting the efficiency of the fast-track border procedure

The Commission notes that it has financed the deployment of doctors on all hotspot islands.

114 The Commission notes that recently EASO and the Greek Asylum Service have modified their Standard Operating Procedures to put in place a more efficient system to deal with vulnerability assessments.

135 The possibility for national authorities to mutually recognise the return decision issued by another Member State exists since 2001, pursuant to Directive 2001/40/EC. However, the lack of means for ensuring information exchange regarding the return decisions issued makes it difficult to implement it in practice.

Regulation (EU) 2018/1860 of 28 November 2018 on the use of the Schengen Information System for the return of illegally staying third-country nationals will facilitate the practical application of the rules on mutual recognition of return decisions.

This Regulation entered into force in December 2018 and will be applicable when the necessary technical steps will have been completed. No later than 28 December 2021, the Commission shall adopt a decision setting the date on which SIS operations start.

142 The Commission notes that a new three-year AVRR programme under AMIF national programmes is in place in Greece as of September 2019.

CONCLUSIONS AND RECOMMENDATIONS

146 The substantial EU support provided in financial and operational terms by the Commission and relevant EU Agencies has made a significant difference. Without this support the situation would have been even more difficult on the ground in the frontline countries, notably Italy and Greece. When considering this EU support, it should also be borne in mind that the final legal and political responsibility for managing migration flows on their territories remained solely with the Italian and Greek authorities. Neither the Commission nor the EU Agencies have executive powers in Member States and could not replace the Greek or Italian authorities in their duties and with regard to the shortcomings in their national asylum or return procedures.

147 See Commission reply to paragraph 23.

148 The Commission reiterates that the implementation of the recommendations lies with the Member States. The Member States that provide the experts decide on the length of their deployment and the persons they deploy, based on the applicable legal framework.

As regards Frontex staff deployments, the Commission would like to underline that permanent presence on the hotspot remains essential given the unpredictability of flows (combined with their seasonality), as shown by ad-hoc relocation cases following 2019 disembarkation events. In addition, it is very complicated to redeploy experts, which are

largely provided by Member States. The Commission supports a flexible approach with a combination of permanent and mobile teams who can cover disembarkations in the South of Italy.

150 Please see Commission replies to paragraphs 36, 41, 44 and 48.

The Commission would like to highlight that the temporary relocation schemes have been very successfully implemented.

They were always designed to relocate from Greece and Italy only a limited number of asylum applicants in need of international protection compared to the overall number of arrivals in those Member States, which notably in Italy consisted in their large majority in migrants holding nationalities not being eligible for relocation.

151 See Commission reply to paragraphs 48 and 150.

152 In its Progress Report on the Implementation of the European Agenda on Migration of 16 May 2018, the Commission notes that 96% of those eligible for relocation (i.e. asylum applicants for whom Italy or Greece were responsible, belonging to one of the nationalities eligible for relocation, registered for relocation and not posing a threat to public order or national security) were effectively relocated. Those excluded on public order or national security grounds cannot be considered since they actually did not meet the eligibility criteria of the Decisions.

The Commission has not specifically followed up the situation in the Member States of relocation.

Recommendation 1 – Use lessons learned to build on experience for any possible voluntary relocation mechanism in the future

The Commission accepts the recommendation.

153 In the next MFF, the Commission has proposed that emergency assistance will be included in the thematic facility which is subject to the general control and monitoring framework of the future Funds.

154 Two EMAS projects were still ongoing at the time of the audit.

155 The multiannual strategic planning of the AMIF national programmes is well structured. What can be improved are the mechanisms whereby the national programmes can be adapted more swiftly to the rapidly changing needs linked to the migratory patterns and the effects of the political decisions by the governments in place.

Since 2017, the Commission has engaged with Greece in a comprehensive needs assessments and financial planning exercise. The Greek authorities submit an annual Financial Plan which is regularly monitored and reviewed through a Steering Committees attended by concerned Greek Ministries, the European Commission, and EASO (also see Commission reply to paragraph 68).

157 The Commission Delegated Regulation (EU) 2017/207, establishing the Common Monitoring and Evaluation Framework (CMEF) was adopted on 3 October 2016. It included the evaluation questions for both Funds as well as lists of common results and impact indicators. It is important to note that the Fund specific legal bases already included common indicators for the measurement of the specific objectives, therefore a scheme was available from the start.

Recommendation 2 – Strengthen the management of AMIF emergency assistance and national programmes

a) The Commission accepts the recommendation.

For the future MFF the Commission is planning to define a set of general parameters for the allocation of emergency assistance to the Member States.

The Commission intends to introduce such general parameters in the future work programmes within the Thematic Facility under the Home Affairs Funds of the next MFF.

b) First indent: The Commission accepts the recommendation and will continue to make every effort possible in demanding that implementing partners and the Member States include RACER indicators with appropriate targets and baselines in every application for emergency assistance. However, there will always be cases where defining indicators requires a long reflection process, or where it is too complex to predict the targets or assess the baseline. In such cases, the Commission may still have to accept limited indicators or undefined targets due to urgency to allocate financial support. To mitigate the situation, the Commission will continue to monitor closely the projects in order to help Member States maximising the actual outputs and outcomes on the ground.

The Commission will therefore not stop granting EMAS projects for the sole reason of insufficient indicators since it relies also on its stable monitoring and control framework to ensure outputs are delivered on the ground.

b) Second indent: The Commission accepts this recommendation. This will be done in the context of the ex post evaluation foreseen in the Regulation (EU) No 514/2014.

b) Third indent: The Commission accepts the recommendation. It has already included in the AMIF proposal output and result indicators for the period 2021-2027 covering both the national programmes and the emergency assistance with indicators including baselines and targets.

c) The Commission accepts this recommendation. For EASO's Greece and Italy Operating Plans 2020 the discussions between DG HOME and EASO have started already in June 2019 so as to ensure synergies with ongoing and planned actions under the national programmes and EMAS. Moreover, in the case of Italy, EASO's annual operating plans are developed by EASO in close cooperation with the same Department of the Italian Ministry of Interior supervising Italy's AMIF Responsible Authority; this facilitates synergies with the national programmes.

159 See Commission reply to Box 7 and on the deployment of national experts to paragraphs 29-30.

160 Frontex return support and AMIF national programmes are supporting the same type of forced return activities but in a complementary way. Having the possibility to organise return operations financed through AMIF national programmes give Member States the necessary flexibility in order to perform a return when and where the Agency cannot offer support.

Recommendation 5 – Reinforce the management of the national asylum systems

a) The Commission accepts the recommendation. The Commission is fully committed to supporting the Greek authorities to clear the backlog at first instance.

The Commission highlights that (i) a number of issues need to be resolved by the Greek authorities to allow the Commission and EASO to increase their support to GAS (see Box 7 above) and (ii) that taking decisions on asylum applications (i.e. to actually decrease the backlog) is a competence of the Member State.

b) The Commission accepts the recommendation. The Commission is fully committed to supporting the appeals authorities in Greece.

The Commission highlights (i) that the organisation of the legal system in Greece is the competence of the national authorities and (ii) that EASO is already providing support to the appeal authorities by providing rapporteurs (not involved in the decision-making).

c) The Commission accepts this recommendation. The Commission highlights that its implementation is dependent on the final outcome of currently pending legislative procedures on related instruments which are currently in inter-institutional negotiations: the 2018 Commission proposal to amend Regulation (EC) No 862/2007 of the European Parliament and the Council of 11 July 2007 on Community statistics on migration and international protection (COM(2018) 307 final), the Commission proposal for a Regulation on the European Union Agency for Asylum (COM(2018) 633 final).

Recommendation 6 – Support further national return procedures

a) The Commission accepts the recommendation.

The Commission is fully committed to further support the Greek and Italian authorities to address the causes for low returns. The Commission already implemented measures possible according to its mandate, which need to be put in place by the Greek and Italian authorities.

b) The Commission accepts the recommendation.

The Commission in the context of comprehensive partnerships with third countries, will look at effectively utilising its policies and tools in a coherent way with the aim of strengthening cooperation on return and readmission will work to increase its leverage towards third countries. In February 2020 the new Visa Code will enter into force, with a specific provision establishing a possibility to impose visa restrictions to non-EU countries which do not cooperate on readmission.

In addition, in the context of the negotiation of the post Cotonou framework, the Commission is mandated by Member States to ensure that more concrete provisions on readmission are part of the future agreement.

c) The Commission accepts the recommendation.

d) The Commission accepts this recommendation.

The Commission highlights that the primary responsibility for collecting data lies with the Member States.