



First measures under the European Agenda on Migration: Questions and Answers

Brussels, 27 May 2015

What is the European Agenda on Migration?

Migration is one of the ten political priorities of this Commission. The [European Agenda on Migration](#), adopted on 13 May 2015 develops the political guidelines of President Juncker into tailored initiatives aimed at managing migration better in all its aspects. The first part of the Agenda defines immediate measures to prevent human tragedies and to deal with emergencies. The second part of the Agenda defines a new strategic approach to manage migration better in the medium to long term.

What does the first implementation package include?

In the European Agenda on Migration, the European Commission committed itself to taking a number of concrete measures by the end of May in order to respond to the immediate, emergency situation. The first implementation package fulfils this commitment and includes: a proposal for a Council Decision to trigger **an emergency relocation of 40 000 persons in clear need of international protection from Italy and Greece** based on Article 78(3) of the [Treaty on the Functioning of the European Union](#) (TFEU); a Recommendation proposing **an EU-wide resettlement scheme to offer 20,000 places** to people in clear need of international protection outside of the EU; an **Action plan to fight migrants' smugglers**; Guidelines of the Commission services on how to **facilitate systematic fingerprinting** of new arrivals, in full respect of fundamental rights; and a public **consultation on the future of the Blue Card Directive**. The package also includes an **information note on the state of play of the Frontex coordinated operation Triton**.

1. Proposal for provisional emergency relocation measures

What does Article 78(3) of the Treaty say?

Article 78(3) of the TFEU provides a specific legal basis to deal with emergency situations at the external borders. It states that "In the event of one or more Member States being confronted by an emergency situation characterised by a sudden inflow of nationals of third countries, the Council, on a proposal from the Commission, may adopt provisional measures for the benefit of the Member State(s) concerned. It shall act after consulting the European Parliament".

Has Article 78(3) ever been triggered in the past?

Article 78(3) TFEU has never been triggered before. Until now, Member States confronted with situations of particular pressure have been supported via the provision of financial assistance (emergency assistance under the European Refugee Fund until 2014, and the Asylum, Migration and Integration Fund since 2014) and operational support (European Asylum Support Office – EASO).

What are the criteria for triggering Article 78(3)?

The criteria for triggering Article 78(3) are defined in the Treaty: one or more Member State(s) must be confronted with an emergency situation, characterised by a sudden inflow of third countries nationals. It is clear from the wording of this provision that this is a mechanism to be triggered in exceptional circumstances when, based on clear indications such as statistical data, the asylum system of a given Member State can be endangered by a consistently high inflow of migrants arriving on its territory, and in particular of those in clear need of international protection. A high threshold of urgency and severity of the problem are therefore prerequisites.

For which Member States will it be activated?

Under the current circumstances, the Commission considers that two Member States, namely **Italy** and **Greece**, appear to meet the criteria for activation, being confronted with exceptional migratory inflows. In 2014, Italy saw 277% more irregular border crossings than in 2013, representing 60% of the total number of irregular border crossings in the EU. A steady increase also occurred in Greece, with an increase of 153% of the number of irregular border crossings in 2014 compared to those in 2013, representing 19% of the total number of irregular border crossings in the EU overall. In both cases, this trend looks set to continue, with unprecedented flows of migrants continuing to reach their shores.

Another important migratory route in 2014 was the **Western Balkan route**. However, with Kosovars accounting for 51% of arrivals along this route, the majority of arrivals are not generally in need of international protection.

The current migratory landscape in Italy and Greece is therefore unique. However, the Commission stands ready to trigger similar mechanisms in the future for Member States that may be confronted with an emergency situation. The Commission will notably continue to monitor the situation in **Malta**, which, with a similar geographic situation to Italy and Greece, has already faced similar situations in the past.

Why is Malta not included as a beneficiary of the scheme?

Malta has a similar geographic situation to Italy and Greece and has clearly had to deal with emergency situations in the past, which would have been eligible for such a relocation scheme.

The situation in Malta today – because of relatively small numbers reaching Malta in the last two years – is not currently comparable to that in Italy and Greece and Malta has therefore not been included as a beneficiary.

The Commission will continue to monitor the situation in Malta closely and stands ready to trigger a similar relocation mechanism should an emergency situation arise in Malta.

The Commission will suspend the application of the mechanism for Italy and Greece for countries experiencing an emergency of their own, meaning Malta would not be obliged to take in persons from the two countries should it experience a sudden influx of third country nationals.

How many applicants is the Commission proposing to relocate from Italy and Greece?

The Commission proposes to relocate in total **40 000 applicants in clear need of international protection**. This corresponds to approximately 40% of the total number of applicants in clear need of international protection who entered these two countries irregularly in 2014. The distribution of the 40,000 total between the two countries, respectively **24,000 from Italy** and **16,000 from Greece**, is based on their respective shares of the total number of irregular border crossings of persons in clear need of international protection over the last year.

How long will the measures be applicable for?

The duration of these temporary measures will be 24 months following their adoption by the Council (under Article 78(3) the European Parliament is consulted by the Council before their adoption).

Which nationalities would fall under the emergency relocation scheme and why?

The relocation scheme is only intended for those “in clear need of international protection”.

Those eligible for relocation are therefore applicants with nationalities who have an average EU recognition rate for international protection that is equal to or above 75%, according to the latest available EU-wide Eurostat data.

According to Eurostat data, for 2014, two nationalities had such a high recognition rate across EU Member States: **Syrians** and **Eritreans**.

Why did the Commission choose the 75% recognition rate?

The 75% recognition rate threshold has two objectives: 1) to ensure to the maximum extent possible that all applicants who are in clear need of protection can enjoy their protection rights as soon as possible; 2) to prevent that applicants who are unlikely to qualify for asylum are relocated and therefore unduly prolong their stay in the EU.

Which countries participate in the emergency relocation scheme?

The proposal concerns in principle all EU Member States.

As Italy and Greece are the beneficiary Member States, they are not included in the redistribution key.

The **United Kingdom** and **Ireland** have ‘opt-in’ rights under the Treaties, meaning they only participate if they so choose. **Denmark** has an ‘opt-out’ right under the Treaty, meaning it will not participate.

Associated States have no obligation to take part in the emergency relocation scheme but may decide voluntarily to participate.

How has the distribution key between Member States been calculated?

The criteria take into account both the absorption capacity and the integration capacity of the Member States. The two major factors are: 1) the size of the population (40%): the larger the population, the easier it is for the Member States to absorb and integrate refugees; 2) the total GDP (40%): large economies are generally considered more able to shoulder greater migration pressures. In addition,

there are two corrective factors (applied inversely): the number of the asylum applications received and resettlement places already offered in the past 5 years (10%) and the unemployment rate (10%). In the latter cases, the higher the existing asylum application numbers and the higher the unemployment rate, the fewer individuals a Member State should relocate.

Is the distribution key objective?

The key is based on objective, quantifiable and verifiable criteria with appropriate weighting factors. The data used in the key is data provided by the Member States themselves to Eurostat.

At the same time, relocation criteria are subject to the existing right under the Dublin Regulation to be relocated with family members in the same Member State of relocation, and to give primary consideration to the best interests of the child.

What about the Dublin Regulation?

For the relocated persons, the proposed decision entails a limited and temporary derogation from certain provisions of the Dublin Regulation, in particular as regards the criterion for determining the Member State responsible for examining an asylum application. For the remainder, the Dublin regulation remains applicable and valid as a general rule for all asylum applications lodged in the European Union.

Who takes the final decision on the asylum application of relocated persons?

Only applicants who appear *prime facie* to be in clear need of international protection will be relocated from Italy and Greece. The Italian and Greek authorities will be assisted in identifying such persons with the help of the European Asylum Support Office (EASO) and other relevant Agencies. This is to avoid the unnecessary relocation of applicants who will not be granted protection in the end and have to be returned to their countries of origin.

The decision, however, on whether an applicant is finally granted a form of international protection lies with the Member State the applicant is relocated to.

Who covers the cost for the transfer of the relocated persons?

The EU budget will provide an extra **€240 million** in dedicated funding to support this 24 month scheme.

Member States that relocate applicants in clear need of international protection will receive a €6000 lump sum for each relocated person, under the Asylum, Migration and Integration Fund (AMIF).

What measures will be put in place to avoid secondary movements?

To avoid secondary movements of relocated persons from the Member State of relocation to other Member States, applicants will be informed of the consequences of such action, namely that they will be returned to the Member State of relocation under the Dublin system.

Greater efforts will be taken to ensure that all new arrivals in Italy and Greece will have their fingerprints taken, as EU rules oblige.

Applicants who have not had their fingerprints taken will not be relocated to other EU Member States.

What are the next steps?

The Commission proposal now needs to be adopted by the Council, voting by qualified majority, after consultation of the European Parliament.

As per Council voting rules, Member States who have not opted-in to the proposal do not vote.

2. Recommendation for the establishment of a European resettlement scheme

What is resettlement? How does it work?

Resettlement is the process whereby, upon an assessment and request by the United Nations High Commissioner for Refugees (' UNHCR'), non-EU displaced persons in clear need of international protection are transferred from a non-EU country and established in an EU Member State with the objective of admitting them and granting them a form of international protection. Currently, resettlement of refugees is voluntary, with EU efforts being a sum of all national actions. Currently, only 15 EU Member States have resettlement schemes, with three other Member States resettling on ad hoc basis. The remaining Member States do not participate in resettlement.

Number of resettled persons during the period 2008 - 2014

	2008	2009	2010	2011	2012	2013	2014
Belgium	:	45	:	25	0	100	35
Bulgaria	:	:	:	:	0	0	0
Czech Republic	:	0	40	0	25	0	0

Denmark	565	450	495	515	470	515	345
Germany	0	2070	525	145	305	280	280
Estonia	0	0	0	0	0	0	0
Ireland	100	190	20	45	50	85	95
Greece	:	:	:	0	0	0	0
Spain	:	:	:	:	80	0	125
France	195	520	360	130	100	90	450
Croatia	:	:	:	:	:	0	0
Italy	70	160	55	0	0	0	0
Cyprus	0	:	0	:	:	0	0
Latvia	0	0	0	0	0	0	0
Lithuania	:	:	:	0	5	0	0
Luxembourg	:	30	5	0	0	0	30
Hungary	0	0	:	0	0	0	10
Malta	0	0	0	0	0	0	0
Netherlands	695	370	430	540	430	310	790
Austria	0	0	0	0	0	0	390
Poland	:	:	:	:	0	0	0
Portugal	10	0	35	30	15	0	15
Romania	0	0	40	0	0	0	40
Slovenia	0	0	0	0	0	0	0
Slovakia	0	0	0	0	0	0	0
Finland	750	725	545	585	730	675	1090
Sweden	1865	1890	1790	1620	1680	1820	2045
United Kingdom	640	945	720	455	1040	965	645

Source: Eurostat – These figures only concern a limited definition of resettlement and do not include humanitarian visas, which are also a form of international protection granted by EU Member States. This is notably the case of Germany which provides a high number of humanitarian visas.

What does the implementation package concretely propose regarding resettlement?

To avoid displaced persons in need of protection having to resort to the criminal networks of smugglers and traffickers, the European Agenda on Migration of 13 May calls on the European Union to step up its resettlement efforts.

The Commission has adopted a Recommendation proposing an **EU-wide resettlement scheme to offer a single EU pledge of 20,000 places**, in order to bring refugees safely and legally to the EU.

The duration of the scheme is **2 years**.

Under the Commission proposal, the overall pledged resettlement places should be distributed amongst EU Member States based on a distribution key.

The criteria of the key are the same as for the emergency relocation scheme: GDP, size of population, unemployment rate and taking into account past numbers of asylum seekers and resettlement efforts already made on a voluntary basis by Member States.

Participating in the resettlement scheme is on a voluntary basis, and Associated States are invited to take part.

How will the resettlement scheme be financed?

The EU budget will provide dedicated funding of **an extra €50 million** in 2015/2016 to support this scheme. The additional money for the EU-wide resettlement scheme (€50 million spread evenly across 2015 and 2016) will be added to the special Asylum, Migration and Integration Fund (AMIF).

What are the next steps?

Member States are requested to commit to the recommended resettlement places by September 2015.

3. Action Plan on Migrant Smuggling

What is the Action Plan on Smuggling?

The EU Action Plan against migrant smuggling (2015-2020) sets out concrete actions to counter and prevent migrant smuggling, while ensuring the full respect and protection of the human rights of migrants. This **Action Plan** sets out the specific actions necessary to implement the Security and

Migration Agendas in this area, and incorporates the key actions already identified therein. It is based on a multidisciplinary approach, involving different actors and organisations at local, regional, national and international levels. The Action Plan covers all phases and types of migrant smuggling, as well as different migratory routes. The concrete actions set out in the plan encompass both short and long term objectives.

Can you give concrete examples of how the Action Plan will help tracking, preventing and fighting the smugglers?

The Action Plan against migrant smuggling focuses on 4 areas:

- Enhanced police and judicial response
- Improved gathering and sharing of information
- Enhanced prevention of smuggling and assistance to vulnerable migrants
- Stronger cooperation with third countries

The Commission is proposing to establish single points of contact on migrant smuggling in each Member State and is planning to revise the existing EU legal framework on migrant smuggling by 2016. Cooperation with Financial Intelligence Units will be launched to step up financial investigations in order to track and confiscate criminal proceeds from migrant smuggling, as well as setting up a list of suspicious vessels likely to be used in the Mediterranean.

In addition, European Liaison Officers will be deployed in key EU Delegations to improve and streamline information sharing, and the Commission will establish a regular collection of crime statistics on migrant smuggling.

In order to prevent the phenomenon of smuggling, in coordination with the EEAS, the Commission will cooperate with third countries to develop information and prevention campaigns. The Commission will also develop a handbook and guidelines for transport and border authorities. In 2016, a consultation and impact assessment will be launched on [Directive 2004/81/EC](#) on residence permits issued to victims of human trafficking in order to possibly review it. CSDP missions and operations contribute to the fight against smugglers and assist third countries in enhancing their own capabilities.

To increase the effectiveness of return as a deterrent to smuggling, the Commission will propose to amend the Frontex legal basis to strengthen its role on return and in 2015-16, will evaluate how the Schengen Information System (SIS) can be better used to enforce return decisions. Possibilities include introducing an obligation for Member States to enter entry bans into the SIS system so they can be enforced EU-wide.

Finally, the EEAS and the Commission will work together to launch or enhance existing bilateral and regional cooperation frameworks with relevant third countries, while also offering financial and technical assistance to build up their capacity to deal with this challenge. EU cooperation platforms on migrant smuggling will be set up in priority third countries of origin and transit, aimed at bringing together international organisations, EU Delegations and national governments.

Does the Action Plan focus in particular on the Mediterranean area?

While the Plan envisages action against all forms of migrant smuggling on all migratory routes, actions to counter smuggling through the Mediterranean are particularly urgent. Europol's Joint Operational team JOT MARE will be strengthened to make it the EU information pooling hub in the fight against migrant smuggling.

4. Guidelines on EURODAC and fingerprinting obligation

What is EURODAC? Why are asylum seekers fingerprinted?

EURODAC is a biometric database aimed at facilitating the application of the [Dublin Regulation](#), which determines the Member State responsible for the assessment of an asylum claim presented in the European Union and the Associated Dublin States (Norway, Iceland, Switzerland and Liechtenstein). Under the EURODAC system, participating States must take the fingerprints of each asylum seeker over the age of 14. The procedure for taking fingerprints has been agreed in accordance with the safeguards laid down in the EU Charter of Fundamental Rights and in the United Nations Convention on the Rights of the Child. These fingerprints are then compared with fingerprint data transmitted by other participating States stored in the central database. If EURODAC shows that the fingerprints have already been recorded, the asylum seeker might be sent back to the country where his/her fingerprints were originally taken.

All EU Member States, as well as the Associated Dublin States, apply the [EURODAC Regulation](#).

What is the Commission proposing when it comes to fingerprinting and EURODAC?

The Commission services have proposed guidelines on the implementation of the existing EURODAC

regulation on the obligation to take fingerprints of all individuals who submit an application for international protection.

Currently, Member States apply the existing legislation under varying conditions, using either detention, coercion or neither to ensure fingerprinting. As a result, the Commission services are putting forward a common approach for the process of fingerprinting.

This approach recommends, in a first instance, counselling and informing applicants of their rights and obligations, and reasons for fingerprinting. If applicants do not cooperate – either by refusing to have their fingerprints taken or by damaging their fingertips to render identification impossible – Member States should make specific and limited use of detention, and use coercion as last resort.

5. Blue Card Directive

What is the Blue Card directive?

In 2009, the EU put in place a set of conditions for non-EU workers considering taking up highly skilled employment in the Member States, creating a harmonised fast-track procedure and common criteria (a work contract, professional qualifications and a minimum salary level) for issuing a special residence and work permit called the "[EU Blue Card](#)".

The Blue Card facilitates access to the labour market and entitles holders to socio-economic rights and favourable conditions for family reunification and mobility within the EU.

The EU Blue Card Directive also promotes ethical recruitment standards to limit active recruitment by Member States in developing countries already suffering from serious "brain drain", particularly in specific sectors such as the health sector. The EU Blue Card does not create a right of admission; it is demand-driven, i.e. based on a work contract. Its period of validity is between one and four years, with possibility of renewal.

Why is the Commission launching a consultation on the Blue Card?

Europe should be able to put in place an attractive EU-wide scheme for highly qualified third-country nationals. The Blue Card Directive already provides such a scheme, but is underused. The Commission is therefore launching today a public consultation on the Blue Card Directive in order to improve the EU's skilled labour migration policies. The consultation invites stakeholders (migrants, employers, governmental organisations, trade unions, NGOs, employment agencies, etc.) to share their views on the EU Blue Card and the EU's labour migration policies. The consultation aims to foster a debate and collect feedback on key issues such as: what should the EU do to boost its attractiveness in the global competition for highly skilled workers? How could the "EU Blue Card" scheme be improved? What can be done to help businesses recruit the talent they need and at the same time maximise the contribution that migrants can bring to our societies?

Blue Cards issued by Member States (Source: Eurostat)

	2012	2013
EU25	3.664	12.854
Belgium	0	5
Bulgaria	15	14
Czech Republic	62	72
Denmark		
Germany	2.584	11.580
Estonia	16	12
Ireland		
Greece	0	:
Spain	461	313
France	126	371
Croatia	:	10
Italy	6	87
Cyprus	0	0
Latvia	17	10
Lithuania	:	26
Luxemburg	183	236
Hungary	1	4
Malta	0	4
Netherlands	1	3

Austria	124	108
Poland	2	16
Portugal	2	4
Romania	46	71
Slovenia	9	3
Slovakia	7	8
Finland	2	5
Sweden	0	2
United Kingdom		

6. Operational Plan of Joint Operation Triton

What is the state of play of Triton today?

Frontex and Italy, in close consultation with Malta and other participating Member States, have agreed on a revised operational plan for Joint Operation Triton.

The Operation Plan extends the geographical area of Triton southwards to the borders of the Maltese search and rescue zone to cover the area of the former Italian Mare Nostrum operation.

Following the asset pledges after the extraordinary European Council on 23 April, the modalities including the exact types and number of technical equipment which have been redefined to cover this extended area and enable the early detection and rescue of migrant boats in distress. The total numbers of available resources has been updated to: 10 maritime, 33 land and 8 air assets, and 121 human resources.

The number of Open Sea Patrol Vessels deployed will be increased from 3 currently to 6 during the summer period (until the end of September) and afterwards to 5 during the winter period. In addition, the capacity for early detections will be increased with the deployment of one additional Fixed Wing Airplane (FWA) to reinforce the 4 currently deployed FWAs. Overall, there will be an intensified level of deployment of these maritime and aerial assets.

In terms of human resources, the number of migrant screening and identification teams will be doubled, and the number of debriefing teams (for intelligence gathering on smuggling of migrants) will be increased from 4 to 9.

More generally, the deployment of assets and human resources will be adjusted in a flexible manner to allow for changes according to the operational needs.

Is Triton's operational area limited to 30 nautical miles? Is it necessary to change the mandate of Frontex for it to operate on the high seas?

The operational area for every joint operation coordinated by Frontex is set out in the operational plan which is agreed upon by the host Member State and Frontex, in consultation with the participating Member States. The current operational area for joint operation Triton covers part of the territorial seas of Italy and Malta, as well as areas on the high seas.

Currently, assets participating in joint operation Triton already intervene in search and rescue operations outside the defined operational area when they are called upon to do so by the responsible Rescue Coordination Centre.

What else can be done to find migrants boats on the high seas?

The Commission encourages Member States to exchange information more effectively and to coordinate their efforts to prevent loss of life at sea. The European Border Surveillance System ([EUROSUR](#)), which was established in December 2013, enables Member States and Frontex to have a better picture of what is happening at sea, to detect and, very importantly, to rescue.

How can Frontex ensure that "saving of lives" is a priority in its activities?

The role of Frontex is to ensure effective border control at the external borders of the EU. Nevertheless, Frontex assists Member States in situations involving humanitarian emergencies and rescue at sea. In practice, assets participating in the Frontex-coordinated operation Triton already intervene in search and rescue operations when they are called upon to do so by the responsible Rescue Coordination Centre or if they happen to come across a rescue situation.

[Regulation 656/2014](#) establishing the rules for the surveillance of the external sea borders in the context of operational cooperation coordinated by Frontex clearly states: "border surveillance is not limited to the detection of attempts at unauthorised border crossings but equally extends to [...] arrangements intended to address situations such as search and rescue that may arise."

Article 3 of this Regulation further specifies that: "measures taken for the purpose of a sea operation

shall be conducted in a way that, in all instances, ensures the safety of the persons intercepted or rescued, the safety of the participating units or that of third parties."

In addition, the [Regulation establishing Frontex](#) specifies that Frontex must respect and implement international law obligations regarding Search and Rescue. The obligation to assist people in distress is indeed part of public international law and binds all Member States and Frontex.

What are the obligations of border guards when faced with a rescue situation during an operation coordinated by Frontex?

Frontex does not replace border control activities at the EU's external borders but it provides additional technical equipment and border guards to those EU countries that are facing an increased migratory pressure. All vessels, helicopters and aircrafts provided by Frontex operate under the command of national authorities. Frontex does not have its own equipment but it relies on the vessels, boats and helicopters as well as border guards provided to Frontex by various Member States. Frontex covers the costs of their transportation, basic maintenance, and per diems of the officers.

According to EU legislation, if during a joint operation there is reason to believe that a vessel or persons on board are in an emergency situation, the maritime and aerial assets must contact the responsible Maritime Rescue Coordination Centre (MRCC). Every country with a maritime border is responsible for conducting maritime rescue on its waters and has a clearly defined authority which is responsible for coordinating search and rescue operations. In the case of Italy, the MRCC is managed by the Italian Coast Guard. In the case of Malta, the MRCC is managed by the Armed Forces of Malta. All assets involved in a search and rescue operation must transmit all available information to the relevant MRCC, be at its disposal and follow its instructions to assist with the rescue operation and disembark the rescued persons in a place of safety.

How will the increased presence of Frontex in the Mediterranean be financed?

The Frontex budgets for Joint Operations Triton and Poseidon for the last 7 months of 2015 were tripled by topping up with the additional amount of €26 million as compared with the initial earmarked budget for both operations. For 2016, the forecasted budget of €22.5 million for both operations was tripled with the additional amount of €45 million. The Commission adopted its proposal on amending the Union budget 2015 on 13 May and will adopt the draft budget for 2016 at the end of May 2015.

In the meantime, the Commission has taken adequate measures to ensure an immediate access to additional funding enabling Frontex to make financial commitments required for timely deployment of the additional resources to the operational area.

For More Information

IP/15/5039 - [European Commission makes progress on Agenda on Migration](#)

MEMO/15/5038

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