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NOTE

From: Presidency
To: Permanent Representatives Committee
Subject: Migration: EU action and state of play

- (1) Europe is facing an **unprecedented** migration crisis. More than ever before, a **common EU response** is needed. In this context it is necessary to accelerate the implementation of the European Council Conclusions of 25 and 26 of June 2015 and the European Agenda on Migration. Moreover the EU needs to deploy extraordinary and emergency measures to alleviate the burden on frontline and receiving Member States.
- (2) This note of the Presidency intends to provide a **state of play of the EU action**. It contains an outlook of the next steps including schedule elements in the short or midterm¹.

A. Asylum: protect and receive people in full respect of EU fundamental values

- (3) The **Charter of Fundamental Rights of the EU** stipulates in Article 18 that the right to asylum shall be guaranteed with due respect for the rules of the 1951 Geneva Convention. The EU will protect those people in need of international protection. Two key tools for this purpose are:

¹ Short term measures enumerated in this note should be implemented in the next three months, while midterm measures should produce effects within one year.

- a) **Regional Development and Protection Programmes**² enabling people in need of international protection to remain in an environment close to their home region and allowing rapid engagement in reconstruction in a post-conflict perspective;
- b) **Resettlement schemes** as the main legal avenue towards Europe. In this context, the Presidency suggests that the European Commission considers in the short term tabling a proposal on resettling Syrian nationals.
- (4) To alleviate asylum pressure on countries that are buckling under the record high volume of migration a fairer distribution needs to be sought at European level. On 14 September, the Council will adopt the **provisional relocation measures in the area of international protection for the benefit of Italy and Greece**. Those measures enter into force on 16 September. The accelerated procedure will allow relocation of persons arrived in Italy and Greece as of 15 August. Member States should start to relocate immediately people from Greece and Italy. It is recalled that the Presidency expects offers to complete the missing pledges.
- (5) Swift negotiations should lead to the adoption of the **newly proposed decision establishing provisional measures for the benefit of Italy, Greece and Hungary**. The total number should be proportionate to the current crisis. All Member States are called on participating in a responsible way, demonstrating EU solidarity.
- (6) Aware of the systemic unequal distribution, the Council is going to make without delay efforts towards a fairer burden-sharing. The Presidency is looking forward to engaging negotiations with the European Parliament on the basis of the **proposal for a regulation establishing a crisis relocation mechanism**. Nonetheless, the situation requires additional demonstration of solidarity on the ground. Against the backdrop of the current extraordinary situation and while awaiting structural measures at EU level, further initiatives of direct distribution and management measures on the ground should be encouraged, such as those initiated spontaneously involving Austria, Belgium, Bulgaria, Czech Republic, France, Germany, Greece, Hungary, Italy, Lithuania, Luxembourg, Portugal, Slovenia and Switzerland [...].

² Cf infra

- (7) During the Council meeting on 14 September, the European Commission and concerned Member States will be asked to report on the implementation of **hotspots**. Hotspots must become operational immediately following the entry into force of the Council decision on relocation³. To facilitate the effective implementation of the relocation procedure from the very beginning, Member States liaison officers should be appointed and deployed without further delay. Priority should be given to the infrastructure needed for identification, registration and fingerprinting of incoming migrants. Additional hotspots need to be created whenever and wherever necessary.
- (8) Those claiming for asylum have to be **immediately channelled into an asylum procedure** relying on the EASO support teams. Registration and fingerprinting of migrants have to be closely linked to **effective return policies** for those who do not need protection. Frontex will help Member States by coordinating the return of irregular migrants.
- (9) The deficiencies of the current **system of fingerprinting**, whereby incoming migrants claiming asylum cannot be forced to give their fingerprints, should be addressed by fully using or eventually amending relevant asylum legislation. In the meantime, the guidelines to facilitate the systematic taking of fingerprints as agreed by Member States⁴ should be followed thoroughly, including, if necessary, through the application of Article 15 of the Return Directive⁵ on detention. The Council could ask the Commission to elaborate a code of conduct for law enforcement officers and provide for appropriate training.
- (10) Under the current legal framework (article 13 and article 10 of Regulation 439/2010) Member States suffering from high migratory pressure can ask EASO **to deploy an asylum support team and, if necessary, to coordinate the support actions** destined for them. Concerned Member States are invited to make use of this possibility.

³ Council Decision establishing provisional measures in the area of international protection for the benefit of Italy and Greece (11161/15) to be formally adopted by the Council on 14 September 2015.

⁴ Doc. 11013/15

⁵ Directive 2008/115/EC

- (11) **Reception capacities** in the EU are limited. Due to the current migratory pressure, they are stretched to their limits in many countries. The influx of migrants to Member States will remain high. Additional multi-purpose reception centres need to be established swiftly and on a tailor-made basis. UNHCR declared its readiness to support the frontline Member States and the Council welcomes this future joint handling of first reception. To alleviate the burden from Member States under pressure, where necessary and through the establishment of programs, the European Commission should be invited to examine the possibility of creating centres together with EASO and co-financed by the EU budget.
- (12) In the short term, Member States should prepare **national reception plans** for the creation of additional capacities. They could study the possibility of introducing innovative options together with civil society such as “home hosting”.
- (13) In order to prepare the winter season, it is recalled that Member States under exceptional pressure can request the activation of the **civil protection mechanism**. The Presidency welcomes the requests from Greece and Hungary to get support in the context of the current migratory pressure. Member States should stand ready to reply positively to all urgent requests⁶. The European Commission could be invited in the short term to propose a legal basis to reinforce the intra-EU financial solidarity framework, by providing direct support to civil society organizations engaged in relief operations within the EU.
- (14) **Integration** of migrants is a key to an effective and comprehensive migration management. Therefore, the Council invites its Member States and the European Commission to work together on a common European Integration package, to be translated into concrete action plans by Member States. In particular, measures facilitating access to training and labour market integration of third country nationals, such as i.e. learning of languages and skills, access to vocational training, insertion into national job markets and access to support for setting up businesses, must be an integral part of such an approach. The European Commission should optimize and enhance the use of both AMIF and ESF funding to support integration policies in Member States, as well as ensure the appropriate synergies in national programmes.

⁶ See joint letter of Commissioners Andriukaitis, Avramopoulos and Stylianides dated 09 June 2015, Ares(2015) 2410738

- (15) **Recognition rates and duration of procedures** are divergent in Member States and create as such push and pull factors for movements of people seeking protection. The EU needs a swift implementation of the Common European Asylum System and a mechanism for the enforcement of a decision process based on truly convergent standards, including common rules as far as the length of the procedures and the recognition rates are concerned.
- (16) To more effectively address situations when large numbers of asylum applications are lodged by nationals of third countries for whom there is a presumption that they do not qualify for international protection, the **Council adopted on 20 July 2015 Council Conclusions** stressing the importance of a coordinated approach between Member States on the designation at national level of third countries as **safe countries of origin**. Member States commit to effectively implement in short term these conclusions. Priority is given to an assessment of the Western Balkans countries, since a majority of national lists already include these countries. Moreover, all Member States should assess, without delay, which additional third countries could be designated as safe countries. [a state of play will be presented by EASO on 14 Sept]
- (17) The Council welcomes and supports the European Commission's proposal for an **EU list of safe third countries of origin** and will start negotiations immediately. The Presidency is looking forward to engaging rapidly with the European Parliament.
- (18) In order to proceed to a swift identification of **vulnerable migrants** Member States are invited to further exchange good practices and statistics. In particular, the situation of unaccompanied minors who have no family, siblings or relatives on the territory of the Member States needs to be addressed, thus preventing any exploitation risk for minors. To provide legal certainty concerning the responsibility for examining the application for international protection in such cases, the Council shall conclude, in the light of the Court of Justice's ruling in case C-648/11, the negotiations with the European Parliament on the amendment of Article 8(4) of Regulation 604/2013.

- (19) Third country nationals, as well as individuals who do not have a nationality, come to the EU in the context of illegal immigration, legal migration and refugee protection. Taking joint action on the **protection of stateless persons** reduces the risk of discrimination or unequal treatment of stateless persons within the EU. Stateless persons would be identified and protected throughout the EU and would not have to turn to the asylum system in the country where they are living or to another Member State in an attempt to find a way out of their legal limbo. While acknowledging that the reduction of statelessness through the acquisition of nationality falls within the exclusive competence of each Member State, the EU can envisage facilitating an exchange of good practice between Member States on the mechanisms for determining statelessness status.
- (20) A joint analysis to be conducted by Europol and Frontex on **secondary movements** should be dealt with, as soon as it is published, by Council working groups.

B. Borders: saving lives and efficient control

- (21) The Council invites Member States to **show concrete solidarity** on border management and **Frontex activities** in order to support frontline countries.
- (22) Member States agree to reinforce Frontex Joint Operations (JO) **TRITON 2015** and **POSEIDON 2015**. As regards the **JO TRITON 2015** and **POSEIDON 2015**, and with a view to implementing the 23 April European Council Conclusions, the following actions of Member States should be further strengthened: deployment of additional technical equipment such as patrol vessels and surveillance planes, as well as reinforcement of human resources. Continuous support is being provided in the development of the hotspots concept and of the European Union Regional Task Force (EURTF). Since the beginning of 2015 until 09 August 2015, 270 facilitators were identified by JO TRITON. As regards the **JO POSEIDON 2015**, Member States have significantly contributed to the enhanced border surveillance notably by deploying all types of technical assets, by contributing to Search and Rescue (SAR) activities as well as by enhancing debriefing and screening activities.

- (23) The objective of the crisis management operation called **EUNAVFOR MED** is to contribute to the disruption of the business model of human smuggling and trafficking networks in the Southern Central Mediterranean. Tackling these networks is an essential part of the EU's effort to save lives and prevent the exploitation of migrants. Frontex and EUNAVFOR MED are in the process of exploring the best means for mutual cooperation since the initial planning of the military operation. During the first phase, the operation EUNAVFOR MED supported successfully the detection and monitoring of migration networks through information gathering and patrolling on the high seas. At the Political and Security Committee (PSC) on 27 August 2015, the Operational Commander of EUNAVFOR MED declared his readiness to move forward to the next phase of the operation, focusing on conducting boarding, search, seizure and diversion on the high seas of vessels suspected of being used for human smuggling or trafficking, under the conditions provided for by applicable international law, including UNCLOS and the Protocol against the Smuggling of Migrants. In the meantime, the Defence Ministers and the Foreign Ministers met both separately and informally to discuss among other things migration and the EUNAVFOR MED operation. There seems to be a large consensus for moving to the next phase. The Council, after having assessed the conditions for transition beyond the first phase, will decide whether or not to move to phase 2i). PSC will then implement the decision of the Council. Transition to phase 2ii), which allows the operation EUNAVFOR MED to be also active in the territorial and internal waters of the coastal State concerned, will only be possible once a UNSC resolution and/or the explicit agreement of the coastal State concerned are available.
- (24) Frontex and Member States should swiftly assess the necessity to **deploy RABIT teams** at sensitive borders such as Hungary, Greece and Italy. Frontex has set up operational activities at the Turkey-Greek borders (the JO Flexible Operational Activities 2015 - South Eastern Border, as well as its further component called Rapid Intervention Exercise - REX 2015) These activities aim at reinforcing the response capacity of Greece to the migratory pressures at its borders with Turkey, focusing on border control on entry points at these borders. Member States have been requested by Frontex to provide additional resources in order to meet the needs of these activities.

(25) In accordance with Article 33 of the **Frontex** Regulation, the second evaluation of the Agency covering the period from July 2008 to July 2014 aimed at identifying strong points and possible shortcomings in the implementation of its regulation. It stresses the need for further tools and mechanisms rendering more effective the activities of the Agency. The final report is to be endorsed by the next Frontex Management Board. The main conclusions will be tabled as recommendations by the Management Board to the European Commission. These recommendations should be used as basis for any future Commission policy paper or legal proposal on the future of Frontex (by amending its Regulation), possibly by the end of 2015 or in early 2016. The reform of the Agency's mandate should be ambitious, especially with regard to executive competences for hotspots, its role in effective implementation of return policy at EU level and the Agency's budget and human resources. Home Affairs Ministers will discuss the future of the EU external borders at the Council meeting on 4 December.

C. Return and readmission policies: intensify pragmatic cooperation and improve the EU return rate

- (26) Third countries need to take back their nationals that have no right to stay in the EU. Both **operational and political cooperation and partnerships on readmission** with countries of origin have to be stepped up, particularly where a formal approach through readmission agreements is deemed too cumbersome or is not achieving results. Member States which have a record of successful return operations to relevant countries of origin shall lead on return operations to these countries, allowing thereby other Member States to overcome potential difficulties.
- (27) According to the European Council Conclusions of 25 and 26 of June 2015, cooperating with third countries of origin is a priority for the European Union. In **all contacts at political level between the European Union and countries** with low return rates, the issue of readmission has to be addressed. In this regard, the High Representative has a major role to play. In the short term, EU diplomacy through the EU delegations needs to fully engage in order to promote active cooperation with third countries authorities.

- (28) The European Council Conclusions of 25 and 26 of June 2015 invited the European Commission to set up a dedicated **European Return Programme**. The European Commission presented its European Return Program on 9 September 2015. The Council fully supports a European Return Program which produces direct effects on the ground. Therefore, the Presidency invites the Member States to follow the pragmatic approach put forward by the European Commission in its **return handbook**.
- (29) Member States should **accelerate procedures to issue return decisions** while respecting the individual rights of migrants to be returned. The Schengen evaluation mechanism offers the Commission the possibility to examine and assess the concrete practices of Member States in this area.
- (30) In order to increase the return rate, an effective implementation and follow-up of the European Return Program are a priority for Member States, the European Commission and Frontex. The envisaged outcome depends on the **necessary funding resources**. The Council therefore should ask the European Commission to prepare a dedicated financial resources package enabling the successful implementation of the different actions.
- (31) All leverages, and particularly foreign policy and visa policy, should be mobilized to increase the acceptance by countries of origin of the **EU laissez-passer** for the return of irregular migrants⁷. In the short term, the European Commission should take all necessary steps to increase the security features of this document.
- (32) **Frontex** has to be at the heart of the European Return Program. The Council shall take advantage of its December meeting to intensively reflect about the long-term future of Frontex. While this exercise is ongoing, the Council supports Frontex in fully taking advantage of its mandate by organizing **common return operations**. In this regard, the Council also supports the immediate creation of a Frontex European Bureau for Return.

⁷ Council Recommendation of 30 November 1994 concerning the adoption of a standard travel document for the expulsion of third-country nationals

- (33) Through the adoption of Council Conclusions, the Council wishes to underline that all its Member States are taking all necessary measures in order to ensure that **entry-ban decisions** issued in accordance with Article 11 of the Return Directive are always inserted in the **Schengen Information System (SIS)** pursuant to Article 24(3) of the SIS II Regulation. In parallel, the Council supports the ongoing long-term proceedings carried out by the European Commission with a view to proposing enhanced rules on this matter in the context of a new legislative package on the SIS.
- (34) In order to increase operational effectiveness of the return policy, Member States should use to the fullest extent the possibility to recognize national return decisions provided for under directive 2001/40/EC on the **mutual recognition of decisions on the expulsion** of third country nationals.

D. International cooperation: enhance cooperation in the field and heading towards the high-level conference on the western Balkan route and the Valletta summit

- (35) Managing migration represents a **universal challenge**. Single initiatives or one-sided responses fall short of what is required. The mixed nature of migratory flows in itself - migrants in need of international protection and economic migrants - calls for a comprehensive approach. The EU can only succeed if all policies, that is, foreign affairs, trade policy, development cooperation, humanitarian aid, asylum & migration policy and internal security pursue shared objectives.
- (36) Addressing the **root causes** is vital; the origin of migratory fluxes is exogenous to the EU. Particularly in the context of refugees from the Middle East, continuing the support to the stabilization of Iraq and to the international coalition fighting Da'esh in Iraq and Syria and providing political, humanitarian and military support to the efforts of the coalition are indispensable.

- (37) At this stage, the Western Balkan route is mostly a continuation of the Eastern Mediterranean one, and both must be tackled jointly. In preparation of the **Western Balkan route high-level conference**, the analysis of the migratory trends and figures shows that the EU and its Member States are confronted along this route with a refugee crisis of unprecedented magnitude, mainly as a result of the conflicts in Syria and Iraq, which continue to deteriorate. The Western Balkan route high-level conference, which is part of the follow-up to the Conclusions of the European Council on 25-26 June 2015, aims at defining, together with the concerned countries of the region, concrete actions and measures to address and to more efficiently manage migratory flows now and in the future. Work is already ongoing for the preparation of the Conference. The following deliverables are envisaged with relevant partner countries: *addressing root causes in mobilizing all policy fields; increased financial support to first asylum countries notably via the UNHCR's efforts in these countries; capacity building for reception, registration and asylum systems in transit countries, e.g. through redirecting IPA funds; enhanced cooperation to fight organized crime involved in migrant smuggling and enhanced engagement with countries of origin of irregular migrants*. Relevant international partners, in particular the UNHCR and IOM, will be invited. The venue should be in [...] and the conference is scheduled to take place at the beginning of October.
- (38) The **EU-Western Balkan ministerial forum on 7-8 December** should further deepen the practical implementation of measures to establish the western Balkan region as safe third countries of origin.

- (39) Migration is very high on the agenda of the **European Union and Africa**. It is addressed through cooperation initiatives and political dialogue at continental, regional and bilateral level. Migration has featured prominently at every EU-Africa summit since 2007, including at the last one in Brussels in April 2014, during which Heads of State and Government endorsed the EU-Africa Declaration on Migration and Mobility and adopted at the same time an action plan to implement the principles embodied in this Declaration. Cooperation on migration issues with countries along the West Africa migratory route, the Rabat Process, has been well established since 2006 while a similar initiative was launched last year along the Horn of Africa migratory route in close cooperation with the African Union (the Khartoum Process). The EU has also Mobility Partnerships with Cape Verde, Morocco and Tunisia as well as a Common Agenda on migration and mobility with Nigeria. Migration, including readmission, features prominently also in the Cotonou agreement⁸ which has brought and bound together European and African, Caribbean and Pacific countries in cooperation partnerships spanning over nearly fifty years.
- (40) The **Valletta Summit** will take place on 11-12 November 2015 and bring together EU and African leaders of the countries parties to the Khartoum Process and the Rabat Process as well as the ECOWAS Commission and the African Union Commission. The United Nations Secretary General will be invited along with the most relevant UN agencies dealing with migration (in particular the UNHCR) and the IOM. Two key documents are being prepared for adoption at this Summit: a political declaration and an action plan/outcome document with ongoing and new priority actions to address migration challenges. The first Senior Officials meeting scheduled for 11 September should allow to make good progress with African partners in addressing the following strands: *development benefits of migration and addressing root causes, e.g. investing in development and addressing instability and crises; legal migration and mobility at continental, regional and bilateral level; international protection and asylum to ensure protection of migrants and asylum seekers along the entire migratory route, with particular attention to vulnerable groups, such as unaccompanied minors and women; prevention of and fight against migrant smuggling and trafficking of human beings; and making progress on return and readmission*. Member states welcome the newly proposed trust fund [...] enabling constructive discussion and operational outcome with the African partners. In addition to discussions in other relevant Council configurations, the

⁸ Cotonou Partnership Agreement June 2010, Part 1 Article 13

deliverables of the Valetta Summit will be discussed by Home Affairs Ministers at the Council meeting on 4 December.

- (41) Migration continues to be a global phenomenon at the centre of the **international agenda**. The UN Secretary General will be holding a special migration event in New York on 30 September 2015 in the margins of the General Assembly. Turkey has requested the inclusion of an agenda item in the upcoming 70th General Assembly session dedicated to the plight of refugees. The EU and Jordan co-organise a high-level event on the Syrian crisis in the margins of the UN General Assembly on 29 September. Other opportunities where these matters could be raised include the Global Forum on Migration and Development in Istanbul on 14-16 October and the G20 summit to be held in Antalya (Turkey) on 15-16 November.
- (42) The Presidency calls for **urgent reinforced cooperation with Turkey**. As a major transit country of migrants and given its geographical position, Turkey is a main partner of the EU in the management of migratory flows. The EU will pursue and increase support and assistance to Turkey and the UNHCR, which are deploying huge efforts to host a very large population of Syrian refugees. In the short term, the EU shall also step-up cooperation with Turkey in all other relevant fields, including in the area of border management and in the fight against trafficking and smuggling.
- (43) In its European Agenda on Migration, the European Commission proposed to establish **European Migration Liaison Officers (EMLOs)** to be seconded to EU delegations in key third countries. The EMLOs will work in close cooperation with the Immigration Liaison Officers (ILO) already deployed by Member States and Frontex liaison officers, with local authorities and civil society, with the purpose of gathering, exchanging and analysing information and contributing to effective implementation of EU policies. Work is already ongoing within the EU institutions for defining the role and the tasks of EMLO and allowing their deployment at the earliest opportunity. This issue will be discussed at the HLWG/SCIFA meeting on 15 September. The European Commission and the EEAS should aim at deploying the first EMLOs in strategic third countries before the end of 2015.

- (44) The **Multi-purpose Centre in Niger** is building on a successful initiative implemented by IOM. The multi-purpose centre shall be operational by the end of the year. The main objective of the centre is to provide assistance to migrants in transit in the region of Agadez and also to inform them about the risks of continuing their journey through the Western and Central African migratory routes. It shall also provide opportunities for migrants who wish to come back to their country of origin and promote development of the local communities of the Agadez region. Synergies with EUCAP Niger are fundamental and the Niger pilot should become a model best practice for the Valetta Summit to be developed in other third countries. [Commission will be asked to give updates on the financial support for this project]
- (45) Reception capacities close to the country of origin and better integration opportunities for migrants returned to third countries are key objectives of a comprehensive EU policy. The EU will therefore step-up its support and assistance to the countries who host large number of refugees, in particular in the Middle East, in Northern Africa and in the Horn of Africa. The **regional development and protection programmes** that the EU has already established (in the Middle East) or will establish by the end of the year (in Northern Africa and the Horn of Africa) need to be further developed to achieve the set objectives.

E. The criminal dimension: smuggling of migrants and trafficking of human beings

- (46) In order to maximise benefits, smugglers and traffickers put at risk the life of migrants. The Council urges Member States and third countries national authorities to guarantee the **implementation of systematic prosecution and dissuasive sanctions**. The aim is to disrupt the *de lucre* business models of organised crime groups, calling for intensified prosecution and fight against traffickers and smugglers at the national level as well as further intensified international police and intelligence cooperation.

- (47) In its conclusions of June 2015⁹, the Council instructed to continue the work based on the EU's priorities for the fight against serious and organized crime between 2014 and 2017¹⁰ and identified as a priority of the **EU policy cycle** the disruption of organized crime group's involved in facilitation of illegal immigration operating in the source countries, at the main entry points to the EU, on the main routes and, where evidence based, on alternative channels. The Council also highlighted the need for a comprehensive approach in the fight against trafficking in human beings.
- (48) In July 2015, the Presidency drafted an implementation document for the renewed internal security strategy¹¹. In the field of **combatting illegal immigration**, the Council should bring forward a strategic debate concerning the Joint Action Days 2016, elaborate new operational action plans for 2016 including one dedicated to smuggling of migrants and ensure the setting up of specific operational actions in the field of migrants trafficking.
- (49) In the framework of the EU policy cycle and in the fight against illegal immigration, a dedicated Joint Operation Team **MARE** was created to fight criminal groups facilitating illegal immigration via the Mediterranean sea and the related secondary movements. Furthermore, operation **HUNTING GROUND** is aiming to identify organized criminal groups involved in illegal immigration and to analyse their structures and the routes chosen by those criminal networks (secondary movements) operating on the Balkan route. This operation also focuses on the identification of platforms in relation to the phenomenon of migration with special attention on trafficking in human beings and other forms of crime.
- (50) Beside those activities, the policy cycle also developed specific joint operations during the Joint Action Days. The 2015 operation **BLUE AMBER**, aimed at implementing operational actions with the objective to disrupt organized crime group's activities, inter alia in the field of illegal immigration and trafficking in human beings, involving Member States authorities and their international partners. This cooperation led to the arrest of more than 100 facilitators.

⁹ doc. 9798/15

¹⁰ doc. 9849/13

¹¹ doc. 10854/15

- (51) The **operational cooperation agreement between Frontex and Europol** shall be finalised without delay.
- (52) European and international organizations should **enhance their security response**. The joint COSI/SCIFA meeting scheduled for 22 October should take stock of Europol, Eurojust, Interpol, and the United Nations Office on Drugs and Crime (UNODC) activities and frame the pan-European cooperation with a high degree of priority.
- (53) **At the October JHA Council, Justice Ministers** will address together with the Commission operational cross-border coordination between prosecution services, Eurojust contribution on migrant smuggling, judicial cooperation with third countries and the fight against hate crime and hate speech (in particular on-line).

F. Legal avenues: enlarge progressively the scope of EU legislation and increasing mobility for *bona fide* travelers

- (54) The **Directive on Students and Researchers** was tabled by the Commission on 26 March 2013. Negotiations with the European Parliament have started February 2015. The European Agenda on Migration called for a swift adoption by the co-legislators. Therefore, the Council shall accelerate the work in order to find by the end of the year a compromise with the European Parliament which will provide added value to the existing *acquis* by creating an attractive system while maintaining the necessary safeguards against abuse.
- (55) On 2 April 2014, the Commission submitted the “**Visa Package**“ proposal containing the proposal for the recast of the Regulation on the Union Code on Visas and the proposal for a Regulation aiming at establishing a touring visa. The Council shall accelerate work on the “Visa package” in order to improve mobility of travellers having a positive economic impact. The JHA Council in October 2015 will discuss on the “Visa package” in order to provide guidelines for pending issues.

(56) The Council welcomes further work in the field of legal migration, as it is important to have effective legal channels/avenues for migrants. The European Commission will notably organize a **dialogue with social partners** on legal migration and plans for a review of the **Blue Card directive**.

G. Free movement of persons and Schengen: the acquis to safeguard

(57) **Free movement of persons** and its correlative, the **single Schengen area** without internal border control, are not negotiable. According to EU law and the consolidated jurisprudence of the Court of Justice of the European Union, Member States are fully entitled to take proportionate measures to tackle abuses.

(58) Migration and the crossing of external borders by a **large number of third-country nationals** should not, per se, be considered to be a threat to public policy or internal security.

(59) If the future evolution of the situation on the ground will entail **serious deficiencies that constitute a serious threat to public policy or internal security** within the Schengen area, the possibility of resorting to measures aiming at addressing the underlying situation, including assistance by Union bodies, offices or agencies, such as Frontex, Europol, and technical or financial support measures at national level, Union level, or both, should be fully explored in a timely manner. In case a situation does not improve, the European Commission should not refrain to propose a recommendation to the Council in regard to regulation 1051/2013. The Council may then, as a last resort and as a measure to protect common interests within the area without internal border control, where all other measures are ineffective in mitigating the serious threat identified, recommend that one or more Member States decide to reintroduce border control at all or at specific parts of their internal borders.

(60) In order to protect the single space, the European Commission is invited to further develop the protection of external borders through e.g. **technical instruments** including Smart Borders for secure and fluid border crossings and eventually automated border control gates for EU citizens. Proposals should be presented at the early beginning of 2016.

H. Information exchange: apprehend the current and future scale of migratory fluxes; paving the way to practical cooperation and policy planning

(61) The **information exchange** should be improved through the following measures:

- a) in the short term by establishing a network of points of contact pooling information to Frontex with a view to provide daily updates;
- b) in the short term by bringing together the intelligence gathered by all actors at EU-level such as EU delegations, Intcen, EU-agencies;
The Presidency, with the assistance of the Council General Secretariat, is in the process of opening a **monitoring page on the refugee and migrant crisis on the Integrated Political Crisis Response** web platform. The monitoring page on the refugee and migrant crisis will be up and running as of 10 September 2015.
- c) in the midterm by establishing an early warning system allowing for policy planning and proactive EU action.

I. Funding: towards a truly common EU policy on migration

(62) Without prejudice to the above made calls for developing the financial framework, the EU needs to revise its general framework for financing the EU policy on migration. Funding is provided mainly by the Asylum Migration and Integration Fund (AMIF). However, the European Regional Development Fund (ERDF) and the European Social Fund (ESF) can also be of particular importance in these areas.¹² Furthermore, the Internal Security Fund (ISF) helps Member States to build up sound and consistent external borders. In the framework of the discussions concerning the 2016 budget and of the evaluation of the implementation of the above policies, the budgetary authority could, given the urgency in the above areas, reflect on the possibilities of increasing the volume of those funds, on their role as well as on a facilitated use of the funding of asylum, migration and integration related activities. In particular, the budgetary authorities should increase accordingly the financial and human resources of Frontex and EASO to help them coping with the additional tasks.

¹² For the new programming period (2014-20), at least 20% of ESF resources will contribute to social inclusion, which includes measures for the **integration of migrants** with a particular focus on those seeking asylum and refugees as well as on children. The funds can support targeted initiatives to improve language and professional skills, improve access to services, promote access to the labour market, inclusive education foster inter-cultural exchanges and promote awareness campaigns targeting both host communities and migrants.