Briefing

Tracking European Commission priority initiatives in 2015 – Number 2

First measures of the European Agenda on Migration

SUMMARY

The unprecedented influx of migrants on the EU's southern borders, and the large numbers of tragic deaths of people attempting to cross the Mediterranean irregularly, has brought home the need for more effective management of migration to deal with the current situation. Gathered at the special meeting of the European Council on 23 April 2015, Member States' leaders agreed on the urgent need to seek solutions to the escalating situation. The European Commission was tasked with proposing measures for immediate action, as well as policy options for the medium and longer term.

On 13 May 2015, the Commission presented its proposal for a European Agenda on Migration, which was followed on 27 May 2015 by the implementation plan for the first measures.

This first set of proposals, currently under debate among the Member States as well as various stakeholders, was discussed by the Interior Ministers of the Member States on 16 June 2015 and will subsequently be addressed in the European Council on 25 and 26 June 2015. The European Parliament is preparing an own-initiative report on a holistic approach to migration.

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> **Glossary**
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> **Irregular** [migrant](): a third-country national who does not fulfil, or no longer fulfils, the conditions of entry as set out in Article 5 of the [Schengen Borders Code]() or other conditions for entry, stay or residence in the Member State concerned.
>
> [Asylum-seeker](): a person claiming international protection under Article 1 A (2) of the UN [Geneva Convention](), due to the risk of persecution in their home country.
>
> **Relocation**: the transfer of persons, who need or already benefit from international protection, from one EU Member State to another EU Member State.
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> **Resettlement**: the transfer of third-country nationals or stateless persons, in need of international protection, from outside the EU to an EU Member State on humanitarian grounds, or as refugees.
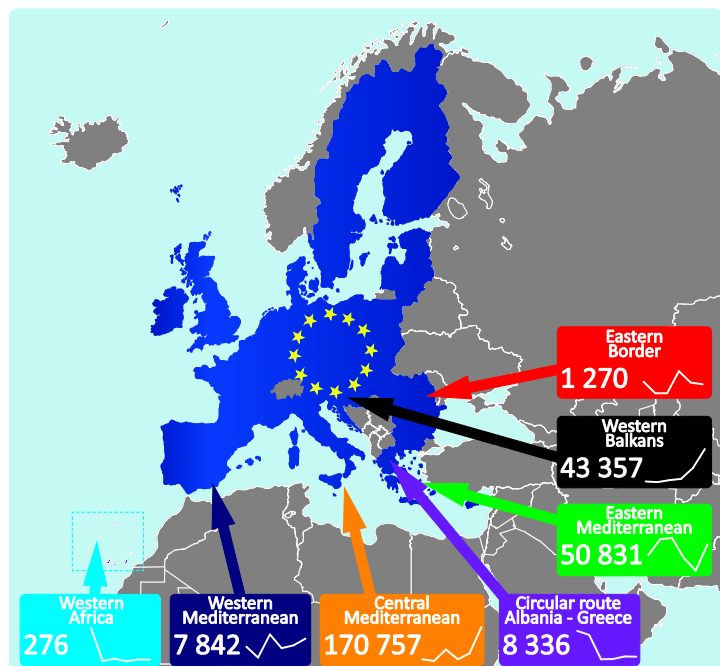
Background

Migrant crisis

The European Union is currently faced with a surge in migration resulting from mixed flows of asylum-seekers and other migrants. Frontex [reports]() that, in 2014, about 278 000 people in an irregular situation crossed the Mediterranean to reach the EU, (see figure 1) which is twice as much as during the 2011 Arab Spring. The situation has become even more critical this year, with more than [85 000 arrivals]() in the Mediterranean Member States in 2015 so far. The most alarming aspect of the increased influx is the sharp rise in deaths: the dangerous crossing has taken the lives of more than [1 829]() victims in 2015 so far, compared to [3 200 people]() in total in 2014, a record year in itself. The reasons behind the biggest wave of refugees since World War II can be linked to the prolonged [conflict]() in the Middle East as well as continuing instability in north and sub-Saharan Africa.

Problems related to the Mediterranean crossing

Frontex has confirmed that [sea traffic]() was already unprece-dentedly high in 2014, when people-smuggling appeared to have become a year-round enterprise. Fears that the number of sea crossings would [peak]() with the approach of the summer months in 2015 proved to be well-founded, as evidenced by the catastrophic shipwrecks of April and May 2015.

The EU's capacity to respond to the crisis through search and rescue measures was, however, inadequate. In October 2014, the Italian-governed 'Mare Nostrum' search-and-rescue

Figure 1 – Irregular border crossing routes (2014)

Eastern Border 1 270
Western Balkans 43 357
Eastern Mediterranean 50 831
Western Africa 276
Western Mediterranean 7 842
Central Mediterranean 170 757
Circular route Albania - Greece 8 336

Data source: ['Irregular immigration in the EU: facts and Figures'](), EPRS, April 2015.

operation, was replaced by an EU-led operation, 'Triton'. Due to its budget being significantly smaller, at €2.9 million per month compared to the €9 million per month for 'Mare Nostrum', and having a more limited fleet, and no mandate to proactively search for and rescue boats, 'Triton' came under [criticism](#) for falling short of the 'Mare Nostrum' operation, which merged intelligence, military and humanitarian tools. With migration flows reportedly increasing by 160% during the first three months of 2015, 'Triton' was blamed for 'encouraging' migrants to attempt the dangerous crossing.

Asylum system in the EU

Since the Lisbon Treaty came into force, [Article 78 TFEU](#) requires the EU to adopt a common policy on asylum, in accordance with the Geneva Convention and its Protocol. The [Common European Asylum System](#) (CEAS) aims to ensure uniform minimum standards in all Member States through five key legislative acts (see our [briefing](#) on the 'legal framework on asylum and irregular immigration').

European Agenda on Migration

From its nomination in summer 2014, migration policy was high on the new Commission's agenda. In his [Political Guidelines](#) for the new term, Commission President, Jean-Claude Juncker set migration policy as one of his 10 priorities, and named Dimitris Avramopoulos as Commissioner for Migration, Home Affairs and Citizenship. Following the tragic escalation of the situation in 2015, the Commissioner presented a [10-point plan](#) for immediate action at a Joint Foreign and Home Affairs [Council](#) on 20 April 2015. This was followed by a [statement](#) issued at a special meeting of the European Council on 23 April 2015, confirming the Member States' political commitment to rapid action. The European Parliament followed up by adopting a [resolution](#), calling for a holistic approach on migration. Delivering a speech on 29 April 2015 during the Parliament's debate on the conclusions of the European Council's special meeting, Juncker [insisted](#) that means for regular migration need to be considered alongside measures to address irregular migration.

On 13 May 2015, the European Commission presented its plans for a [European Agenda on Migration](#), which sets out immediate EU action to respond to the crisis in the Mediterranean, as well as measures for managing migration in the coming years. In the Agenda, the Commission committed to presenting specific measures by the end of May 2015. On 27 May 2015, the Commission subsequently adopted the first implementation package consisting of five elements, set out below.

External action

European Foreign and Defence Ministers, meeting on 18 May 2015, [agreed](#) to create an EU naval force, [EUNAVFOR Med](#), and launch a Common Security and Defence Policy (CSDP) operation in the Mediterranean. The overarching objective is to help save lives through disrupting criminal networks of smugglers and traffickers as well as destroying their vessels. The Italian-commanded force, based in Rome, would operate in the southern central Mediterranean, in cooperation with Libyan authorities.

However, in order to be able to operate in inshore waters of Libya, a country in anarchy since the 2011 Arab Spring, the UN must issue a mandate through a [Chapter VII](#) resolution authorising action with respect to threats to peace, breaches of the peace and acts of aggression. EU High Representative Federica Mogherini had [expressed](#) hopes that the [UN Security Council](#) would adopt a mandate before the Foreign Affairs

Council scheduled for 22 June 2015. This would secure the legal framework to launch the full operation.

First measures proposed by the Commission

Relocation

To manage asylum requests better, the Commission presented a [proposal](#) to activate, for the first time, an emergency mechanism under [Article 78(3) TFEU](#). This temporary measure would allow the most affected Member States – in this case Italy and Greece – to benefit from provisional relocation measures that would allow temporary derogation from the current Dublin rules (i.e. that the first EU Member State in which the asylum-seeker arrives is responsible for dealing with their request). The plan is to relocate 40 000 asylum-seekers who arrived in Italy or Greece after 15 April 2015 to other EU Member States over the next two years. The Commission specifies that this would apply only to those nationalities whose average recognition rate for international protection in Member States is 755 or above – currently only the case for Syrians and Eritreans. The relocation would be based on a distribution key presented in [annexes](#) to the proposal. The key takes into account Member States' capacity to absorb refugees based on factors such as the size of the population, total GDP, the number of asylum requests received and accepted in the past four years, and the unemployment rate. The EU would allocate €6 000 for every relocated person a Member State accepts on their territory. The distribution key would not apply to Italy and Greece, as the beneficiaries of the emergency mechanism, nor to the United Kingdom and Ireland, which retain an opt-in right, nor to Denmark, which has an opt-out under the Treaties.

Resettlement

In addition to asylum-seekers who have already arrived in the European Union, the Commission submitted a [recommendation](#) to resettle 20 000 persons, from conflict areas such as Syria, across the EU Member States over the next two years. A distribution key is again proposed in an [annex](#). The EU would support the Member States by granting funding for each resettled refugee, allocating a total of €50 million in 2015-16. EU Member States have international obligations under the Geneva Convention to resettle refugees in cooperation with the United Nations High Commissioner for Refugees ([UNHCR](#)), which [welcomes](#) the initiative as both a step forward and an example for host countries in the Middle East and elsewhere.

Presenting the implementation plan, Commissioner Avramopoulos [asserted](#) that, rather than fixing quotas, both schemes rely on solidarity among Member States, who are free to decide on the number of persons to whom they grant refugee status on their territory.

Action Plan against migrant smuggling

The Commission tabled the EU [Action Plan](#) against migrant smuggling for 2015-20 with the double objective of fighting smugglers and traffickers while also helping to ensure respect of migrants' human rights. The Action Plan sets out specific measures such as: a review of the relevant EU legislation by 2016 to strengthen the penalties for smuggling; closer cooperation with financial institutions to start financial investigations; cooperation with Europol to detect internet content placed by smugglers' networks; a 'return handbook' in 2015; and a review of the Schengen Information System ([SIS](#)) in 2015-16, to make all Member State entry bans applicable across the Schengen area.

Guidelines on fingerprinting

In accordance with the [Eurodac Regulation](#), all asylum-seekers over the age of 14 years must be fingerprinted upon entry into a Member State. Fingerprints entered in the

Eurodac database help to determine through which Member State the asylum-seeker entered and, thus which Member State is responsible for assessing the asylum claim under the Dublin Regulation. However, the Commission notes that current practices on fingerprinting in the Member States vary, combining elements such as coercion or detention, which should be used as measures of last resort. In order to establish a common fingerprinting procedure, the Commission has drafted guidelines on fingerprinting, and created a new 'Hotspots' concept to provide operational help in frontline Member States. Hotspot teams would be established from the European Asylum Support Office (EASO), Frontex and Europol, to register and fingerprint migrants as and where they arrive on EU territory.

Blue Card Directive
The Commission also finds it essential to consider the beneficial effects of legal migration. Taking into account the ageing population and the skills mismatch in Europe, this could help to attract more highly skilled professionals to the EU. The Commission has launched a public consultation with a view to modernising the Blue Card Directive, the current scheme for regulating the conditions for entry and residence of highly qualified third-country workers.

Frontex-coordinated operation Triton
The Commission announced the reinforcement of the Triton and Poseidon joint operations, in particular through tripling their funding in 2015-16. The new operational plan also provides for increased resources. Moreover, Triton's geographical operational scope is extended southwards to cover the area previously covered by Mare Nostrum.

Policy for the coming years
In the Agenda, the Commission sets out four areas as pillars for a comprehensive, fair and realistic migration policy in the medium and longer term.

Addressing irregular immigration
The Commission, noting that only 39% of return decisions are currently implemented, finds it vital to reduce incentives for irregular migration through proper implementation of the Return Directive. Since returns are not possible unless the returnees are accepted in their countries of origin, the EU intends to seek solutions with third countries, supporting their capacity to receive returnees through humanitarian assistance. To provide guidance regarding the proper implementation of the Return Directive and harmonise practices in the EU Member States, the Commission plans to publish a 'return handbook'. The Agenda also provides for stronger cooperation with third countries faced with a large influx of asylum-seekers in transit.
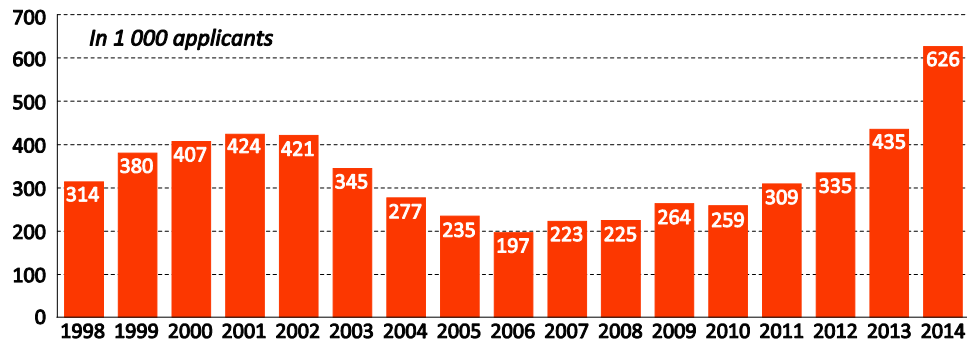
Modernising border management
A crucial aspect of migration management is securing the EU's external borders. The Commission has already presented a Smart Borders package proposal, which is currently in a pilot phase, to be revised by the end of 2015 or early 2016, based on the results of the pilot. To improve border management in the EU's neighbouring countries, EU funding and support would be provided for north African countries. Moreover, the Commission proposes pooling coastguard functions in the Member States, and is considering setting up a European System of Border Guards.

Enhancing common asylum policy
The Commission considers that the uneven implementation of the Common European Asylum System in the Member States provides an incentive for asylum-seekers to apply

for asylum in those Member States where it is more likely to be granted. Consequently, the majority of claims are lodged in only a few of the 28 Member States (see figures 2 and 3). The Commission thus intends to monitor closely how the Dublin rules are applied across the EU, to achieve a balanced implementation of the system and
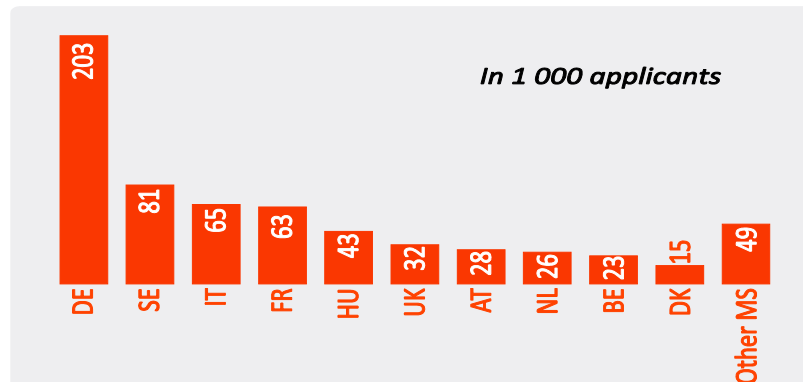
Figure 2 – Asylum applicants in the EU28

In 1 000 applicants

Year	Value
1998	314
1999	380
2000	407
2001	424
2002	421
2003	345
2004	277
2005	235
2006	197
2007	223
2008	225
2009	264
2010	259
2011	309
2012	335
2013	435
2014	626

Data source: 'Asylum in the EU: Facts and Figures', EPRS, March 2015.

consider establishing a single asylum decision process to ensure uniform standards. Ultimately, the Commission may review the Dublin Regulation in 2016.

Figure 3 – Top 10 Member States receiving asylum applications

In 1 000 applicants

Member State	Value
DE	203
SE	81
IT	65
FR	63
HU	43
UK	32
AT	28
NL	26
BE	23
DK	15
Other MS	49

Data source: 'Asylum in the EU: Facts and Figures', EPRS, March 2015.

Facilitating legal migration

To accommodate third-country workers, integration policies would need to be reviewed. The Commission will seek ways to make legal migration beneficial for both individuals and countries of origin, including through improving remittance transfers. Moreover, the Commission will reflect on the possibility of extending visa waivers to benefit more fully from the economic impact of extra tourists and increased business.

Member States' discussions on the first measures

The joint meeting of Foreign and Defence Ministers on 18 May 2015 agreed on the EUNAVFOR Med naval mission, whilst awaiting the UN mandate.

The most debated aspects of the Agenda were the schemes for relocation and resettlement, and the distribution keys in particular. Several Member States issued statements saying that they would not support the proposed 'quota' system, while others expressed support for more burden-sharing and solidarity. The Member States have criticised the distribution key criteria, requesting, for instance, greater

consideration be given to the unemployment rate, and Member States' efforts regarding border control.

The adoption of the relocation proposal requires a qualified majority vote in the Council, whereas the European Parliament will only be consulted. The resettlement scheme, on the other hand, was presented as a Commission recommendation, which is non-binding, and which needs neither the approval of the Council, nor the European Parliament. Nevertheless, the Commission has asserted that, should the voluntary measure prove inadequate, it would follow up with a binding measure.

The Commission's first set of migration measures was discussed by the Home Affairs Ministers on 16 June 2015, as a follow up to the European Council statement of 23 April 2015. Whilst there was broad agreement on the need to support member States on the front-line, considerable divergence remains on the relocation questions, which will now be further discussed by the European Council on 25-26 June 2015.

Juncker, in a speech on 3 June 2015 at the opening of the European Development Days (EDD), declared that, regardless of the lack of Member State enthusiasm, the Commission would not change its plans regarding legal or irregular migration.

Stakeholders' concerns

The European Council on Refugees and Exiles (ECRE) states that refugee rights organisations have expressed concern that the refugees' wishes are not considered, and that they have no input regarding the Member State to which they would be relocated. Indeed, the Commission itself confirms that reception conditions and integration possibilities vary significantly between Member States. It is also unclear how the family reunification principle would be reconciled with the quota system. Expert opinion suggests that the proposed approach fails to take into account the fact that migrants would want to settle in countries where they have networks of 'kith and kin'. Although the plan includes a restriction on relocating away from the original Member State of relocation within five years, the migrants can ultimately move to other Member States.

As regards the resettlement scheme, Amnesty International points out that, while this is a step in the right direction, the number of persons is very small, considering the total number of persons in need of international protection. This adds to criticism that the EU takes in relatively fewer refugees than, for instance, the United States or Canada, while taking into account that the long conflict in Syria has already resulted in over 4 million refugees.

The EU's plan for external action has also raised concerns. Firstly, it is pointed out that to launch the operation in Libyan territorial waters, the EU has to find a consensus with the de facto Libyan authorities, at a time when the Libyan Ambassador to the UN has expressed opposition to the plan. Secondly, it is feared that Libyan militia and Islamic State (ISIL/Da'esh) might attempt an armed response to EU military action, thereby escalating the conflict and requiring NATO involvement. The International Organization for Migration (IOM), while generally supportive of the Agenda, shares concerns regarding migrants' lives being further endangered through escalating military action.

European Parliament activity

The European Parliament has repeatedly called for a holistic approach to migration. In its resolution of 17 December 2014, it urged that all possible measures be taken to save the lives of people in danger, and stressed the need for fair shouldering of

responsibility, and solidarity between Member States, in compliance with Article 80 TFEU.

In its resolution of 12 March 2015 on the EU's priorities for the UN Human Rights Council in 2015, the European Parliament expressed deep concern regarding violations of migrants' rights.

The Parliament is also focused on finding legal avenues to help solve the migrant crisis. In September 2014, the Civil Liberties, Justice and Home Affairs Committee commissioned a study, 'Humanitarian visas: option or obligation?' to look into current EU legislation and practice on issuing humanitarian visas. In May 2015, a study, 'EU migration cooperation with Mediterranean partners: Towards more balanced partnerships?' was prepared for the European Parliament's Delegation to the Parliamentary Assembly of the Union for the Mediterranean, focusing in particular on readmission agreements.

Currently, the Civil Liberties, Justice and Home Affairs Committee is drafting an own-initiative report: 'Situation in the Mediterranean and need for a holistic EU approach to migration' – co-rapporteurs Roberta Metsola (EPP, Malta) and Kashetu Kyenge (S&D, Italy). The topic will be discussed further at the next meeting of the Civil Liberties, Justice and Home Affairs Committee, on 25 June 2015.

Main references

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 'A European Agenda on Migration', COM(2015) 240 final.

Proposal for a Council decision establishing provisional measures in the area of international protection for the benefit of Italy and Greece, 2015/125 (NLE) and its Annexes.

Commission recommendation of 8 June 2015 on a European resettlement scheme, C(2015) 3560/2 and its Annex.

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 'EU Action Plan against migrant smuggling (2015-2020)', COM(2015) 285 final.

Commission staff working document on 'Implementation of the Eurodac Regulation as regards the obligation to take fingerprints', SWD(2015) 150 final.

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