



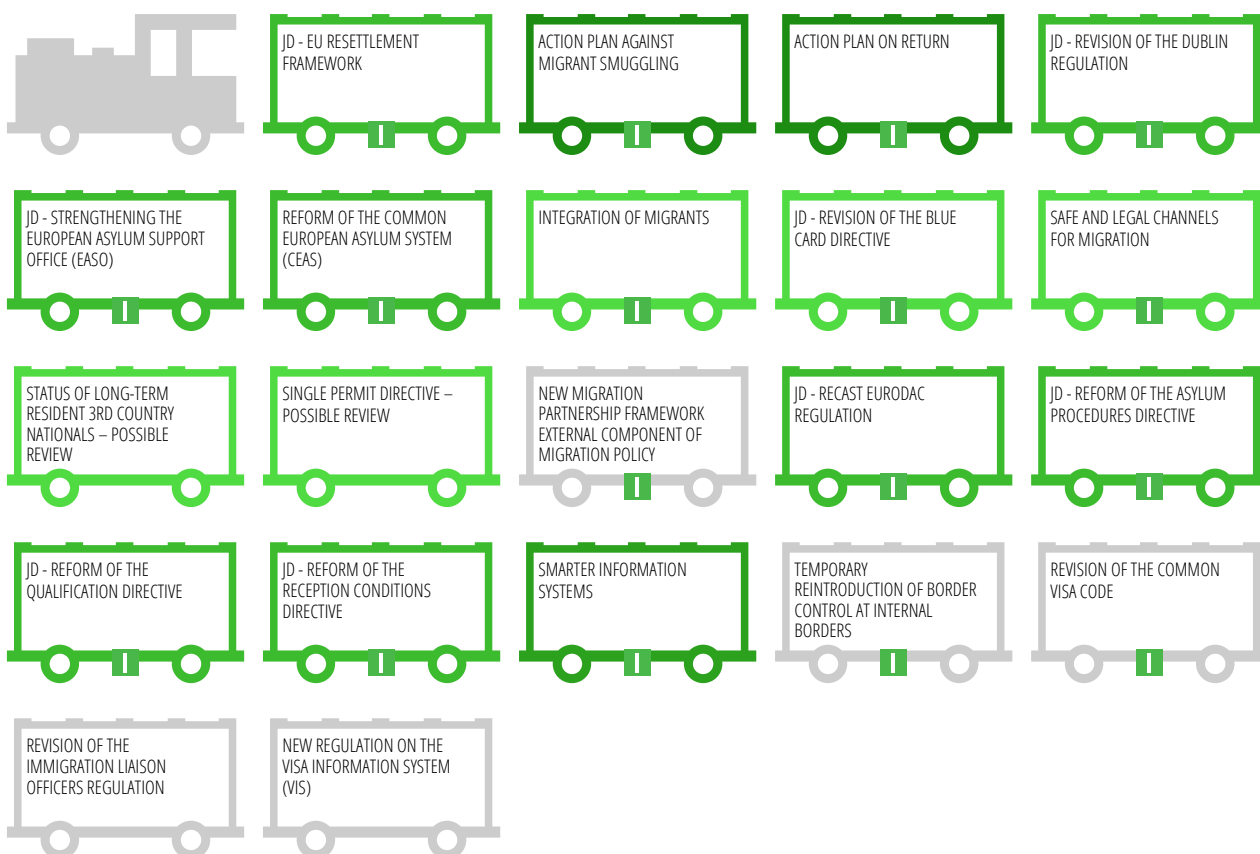
DEPARTURE DEMANDS

1



DEPARTURES

21



EXPECTED ARRIVALS

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ON HOLD

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AMENDMENTS TO THE 2013
DUBLIN REGULATION

C

PERMANENT EU RELOCATION
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HUMANITARIAN VISAS –
AMENDMENT OF THE EU VISA
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ARRIVED

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DIRECTIVE ON STUDENTS AND
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VISA POLICY PACKAGE – VISA
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VISA

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EC

LEGEND

| | |
|---|--------------------------------|
|  | EUROPEAN AGENDA ON MIGRATION |
|  | IMMEDIATE ACTION |
|  | PREVENTING IRREGULAR MIGRATION |
|  | SECURING EXTERNAL BORDERS |
|  | STRONG ASYLUM POLICY |
|  | NEW POLICY ON LEGAL MIGRATION |
|  | 2013 SMART BORDERS PACKAGE |

| | |
|---|---|
|  | DEPARTED |
|  | EUROPARL |
|  | EUROPEAN COURT OF JUSTICE |
|  | COUNCIL |
|  | COMMISSION |
|  | JOINT DECLARATION ON THE EU'S LEGISLATIVE PRIORITIES FOR 2018-19 |
|  | MULTIANNUAL FINANCIAL FRAMEWORK 2021-2027 |

GLOSSARY



DEPARTURE DEMANDS

European Parliament legislative initiative reports in the fields covered by the Ten-Point Juncker Agenda



DEPARTURES

Initiatives announced by the European Commission in its annual Work Programme; legislative proposals submitted by the Commission to the Parliament and the Council; the files are considered departed when the Co-Legislators have started legislative work



EXPECTED ARRIVALS

Legislative proposals close to be finalised



ON HOLD

Initiative blocked by one institution or under negotiations for more than 2 years; announced legislative initiatives or legislative proposals by the European Commission with no follow-up for more than 9 months



ARRIVED

Legislative proposals finalised and adopted by the two Co-Legislators: the European Parliament and the Council of the European Union

DERAILED

Proposals withdrawn by the European Commission

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CONTENT

Due to political instability in Europe's immediate neighbourhood, the Union is facing the most severe migration crisis since the Second World War. The conflict in Syria, war and terror elsewhere in the region have led to record numbers of refugees and migrants arriving in the European Union.

With hundreds of thousands of people embarking on perilous journeys to reach EU borders, the issue of migration, which was already high up on the political agenda, has emerged as the most pressing priority. This situation has required a radical strengthening of the EU migration system and a more coordinated European response.

In its *Strategic guidelines for justice and home affairs* adopted in June 2014, the European Council pointed to the growing challenges at the EU borders, requiring both immediate action and a long-term policy. Beyond the need to address urgently the influx of refugees, future EU migration policy would need to operate at several levels:

First, urgent and concerted action at European level was required to tackle the growing pressure on the EU's Southern borders and to prevent the large numbers of tragic deaths of people attempting to cross the Mediterranean. Europe has the duty to protect those in need of international protection.

At the same time, the root causes of irregular migration flows need to be addressed. There is a need for firm, preventative measures against irregular migration with the goal of avoiding the loss of lives of migrants undertaking hazardous journeys. A sustainable solution can only lie in intensified cooperation with countries of origin and transit.

Therefore, migration policy must become an integral part of the Union's external and development policies addressing the root causes of the refugee crisis.

Finally, the EU needs to cope with demographic challenges better and address shortages in specific skills. That goal demands that Europe ensures it remains an attractive destination for talents, for instance, by simplifying and improving the conditions for entry and residence of third-country nationals.

As underlined by the European Parliament in its resolution of 12 April 2016 on the situation in the Mediterranean, a *holistic EU approach to migration* is required. Indeed, to address both the migratory pressure at EU borders in an effective way and EU demographic challenges, EU policy would need to optimise the benefits of legal migration and offer protection to those in need. At the same time, it should tackle irregular migration and improve management of the EU's external borders.

Against this background, and following the special European Council meeting of 23 April 2015 dedicated to the migration challenge, the European Commission put forward a European Agenda on Migration on 13 May 2015. The first part of the Agenda developed immediate EU measures to prevent human tragedies, address the emergency situation, and clamp down on smuggling networks. The second part of the Agenda defines the new strategic approach to managing migration better in the medium and long term.

On 25-26 June 2015, the European Council agreed to move forward on the proposals included in the European Agenda on Migration. This opened the way, at the Justice and Home Affairs Council meeting on 20 July 2015, to a general approach on the proposal for the relocation within Europe of 40 000 persons in clear need of international protection, as well as to an agreement on the resettlement of 20 000 displaced persons.

Yet, the intensification of the migration situation in Central and Eastern Mediterranean over the summer 2015 required further immediate and concerted action at EU level. Since spring 2015, the Commission has worked for a swift and coordinated European response, issuing three implementing packages under the Agenda on Migration: on 27 May 2015, on 9 September 2015 and on 15 December 2015.

In tripling its presence at sea, creating a new system of emergency relocation of asylum seekers and the European Border and Coast Guard, bringing in new initiatives to reform the EU asylum system, effecting an unprecedented mobilisation of the EU budget to address the crisis and establishing a new partnership with Turkey, the European Union is putting in place important building blocks to deal with the new challenges.

However, full implementation on the ground is still lacking, commitments are slow to be fulfilled, and more still needs to be done to achieve a sustainable system of migration management.

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In its April 2015 Resolution on the latest tragedies in the Mediterranean and EU migration and asylum policies, Parliament called on the Council to trigger the 2001 Temporary Protection Directive's solidarity mechanism in the case of mass and sudden inflows of displaced persons.

In its resolution of 12 April 2016 on the situation in the Mediterranean and the need for a holistic EU approach to migration, the European Parliament underlined that, in the case of a mass influx, the Commission, acting on its own initiative or after examination of a Member State's request, can propose to trigger Council Directive 2001/55/EC on Temporary Protection (the 'Temporary Protection Directive').

The actual triggering requires a Council decision adopted by a qualified majority. The Temporary Protection Directive should be triggered where there is a risk that the Union asylum system would be unable to cope with the mass influx or imminent mass influx of displaced persons. However, since its adoption in 2001, the Temporary Protection Directive has not been triggered.

The Temporary Protection Directive also provides for the possibility of evacuation of displaced persons from third countries; such evacuation would allow for the use of humanitarian corridors, in cooperation with the UNHCR, with an obligation for Member States – where necessary – to provide every facility for obtaining visas.

The European Parliament believes that the asylum systems of some frontline Member States are already clearly overburdened and that the Temporary Protection Directive should, according to its own logic, have been triggered.

Furthermore, Parliament called for a clear definition of 'mass influx' to be established upon revision of the Temporary Protection Directive. Such a revision of the Directive can form part of the review of the Dublin system.

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JD - EU RESETTLEMENT FRAMEWORK

[ DEPARTURES]

- >  EUROPEAN AGENDA ON MIGRATION
- >  STRONG ASYLUM POLICY

1

CONTENT

To avoid displaced persons in need of protection having to resort to the criminal networks of smugglers and traffickers, the European Agenda on Migration, proposed on 13 May 2015, calls on the EU to step up its resettlement efforts.

In addition, the Commission also committed to frame a more permanent and structured EU policy on resettlement, and announced a proposal on the matter for 2016.

The Commission submitted its proposal for a Union Resettlement Framework on 13 July 2016. The proposal would complement the current ad hoc multilateral and national resettlement programmes by providing common EU rules on the admission of third-country nationals, procedures of the resettlement process, types of status to be accorded by the Member States, decision-making procedures

for the implementation of the framework and the financial support for the Member States' resettlement efforts.

On 4 July 2017, the Commission invited Member States to submit by 15 September 2017 new resettlement pledges for 2018 to bridge the gap between the ongoing resettlement schemes and the adoption of the Commission's proposal on a new resettlement framework. On 27 September 2017, the Commission, as a follow up to the pledging exercise launched on 4 July, adopted a Recommendation to ensure that resettlement efforts can continue in the period between the end of the current EU resettlement schemes and the operationalisation of the Union Resettlement Framework. According to the Recommendation, Member States should offer at least 50 000 resettlement places to admit by 31 October 2019 persons in need of international protection from third countries.

In his 2017 State of the Union Letter of Intent the Commission president Juncker called upon the EP and the Council to adopt the proposal on the Union resettlement framework by the end of 2018.

Along the same lines, the Commission in its Communication of December 2017 invited the EU Leaders to agree on reaching the political agreement between the EP and the Council on the Union resettlement framework by May 2018.

On 15 November 2017, the Permanent Representatives Committee (Coreper) endorsed, on behalf of the Council, a mandate for negotiations with the EP. According to the Council the parts, relating to other files of the common European asylum system (CEAS) reform, will be revisited at a later stage. The mandate includes:

- a two year EU resettlement and humanitarian admission plan adopted by the Council (maximum total numbers of persons to be admitted, the contributions of member states to this number and the overall geographical priorities);
- voluntary contribution of Member States to this plan;
- two types of admission: resettlement and humanitarian admission;
- acknowledging the UNCHR expertise in the field

The European Parliament in its resolution from 12 April 2016 on the situation in the Mediterranean and the need for a holistic EU approach to migration has taken the following position:

- resettlement is one of the preferred options for granting safe and lawful access to the Union for refugees and those in need of international protection;
- resettlement through the auspices of the UNHCR is a well-established humanitarian programme;
- there is a need for a permanent Union-wide resettlement programme, with mandatory participation by Member States, providing resettlement for a meaningful number of refugees, having regard to the overall number of refugees seeking protection in the Union.

In the European Parliament, the proposal for a Union Resettlement Framework has been assigned to the Civil Liberties, Justice and Home Affairs Committee (LIBE) under the rapporteurship of Malin Björk (GUE/NGL, Sweden). On 12 October 2017, the LIBE Committee adopted the draft report and the decision to enter into interinstitutional negotiations. The EP confirmed the mandate to

enter into inter-institutional negotiations at the October II plenary session.

According to the report member states should provide resettled persons with a long-lasting solution, first and foremost by granting refugee or subsidiary protection status. Member States may issue permanent residence permits.

The report also calls on Member States to increase resettlement efforts and the number of resettlement places in order to shoulder a fair share of global responsibility. The EU should take on at least 20% of the annual projected global resettlement needs, as defined by UNHCR, which would equate to around 250 000 people in 2017.

Furthermore, resettlement should not be used for other foreign policy objectives, or depend on third countries' cooperation on other migration-related matters, as proposed by the European Commission. Instead, resettlement should be a humanitarian programme and the EU resettlement framework should be based on the annual global projected resettlement needs. The UNHCR should be the main institution to select refugees for resettlement to the Member States.

A Union resettlement plan should be adopted every two years in consultation with the High-Level Resettlement Committee, and should be based on UNHCR Projected Global Resettlement Needs.

Contrary to the Commission proposal, the report retains the allocation of 6 000 EUR from the AMIF fund for every person resettled under Member States' national resettlement programmes. It also supports 10 000 EUR per resettled person, if Member States resettle under the EU resettlement framework, as proposed by the Commission.

The first trilogues among the institutions started in December 2017. According to the Commission, there is a broad convergence on the need for a resettlement scheme and biannual plans. Divergences, however, remain as regards, among others, the scope of ambitions as well as the method for the adoption of a plan – Council implementing vs delegated acts. Further trilogues are expected in June 2018.

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ACTION PLAN AGAINST MIGRANT SMUGGLING

[ DEPARTURES]

>  EUROPEAN AGENDA ON MIGRATION

1

>  PREVENTING IRREGULAR MIGRATION

CONTENT

One of the objectives of the European Agenda on Migration presented on 13 May 2015 is the fight against irregular migration and smuggling.

According to Europol, over 90% of more than one million irregular migrants entering the EU in 2015 used some form of 'facilitation service', which was generally provided by smuggling networks. Often, migrants are forced to work illegally throughout their journey to pay off their debts to the smugglers.

According to Frontex estimates, there were more than 1.8 million irregular border crossings into the EU in 2015; this represents an increase of 546% compared to 2014. Furthermore, in 2015 over 3 770 migrants lost their lives in the Mediterranean Sea.

Beside immediate action to disrupt the activity of smugglers and traffickers (CSDP EUNAVFOR MED-OPERATION), enhanced efforts to clamp down on smuggling networks appeared urgently necessary.

On 27 May 2015, shortly after the presentation of the European Agenda on Migration, the Commission put forward an EU action plan against migrant smuggling (2015-2020). It set out clear measures to counter and prevent migrant smuggling, including revising smuggling legislation, destroying smuggler vessels and stepping up the seizure and recovery of criminal assets, whilst ensuring full respect for and protection of the human rights of migrants.

The action plan against migrant smuggling focuses on four areas:

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

The European Parliament in resolution of 29 April 2015 on the latest tragedies in the Mediterranean and EU migration and asylum policies has called on the Member States to work with Europol, Frontex, EASO and Eurojust to tackle criminal smuggling and trafficker networks and to intercept their funding sources.

In its resolution on the European Security Agenda of 9 July 2015, the Parliament had reiterated that victims of smuggling should be sufficiently protected as this 'sends a clear message to offenders that society will not give in to violence and will at all times safeguard victims and their dignity'.

Furthermore, in its resolution on Migration and Refugees in Europe of 10 September 2015, the European Parliament called on the Member States:

- to lay down strong criminal sanctions against human trafficking and smuggling, both into and across the EU;
- to combat criminal networks of smugglers, but in the meantime not to penalise those who help migrants on humanitarian grounds, including carriers, by asking the Commission to consider revising Council Directive 2001/51/EC.

In its resolution of 12 April 2016 on the situation in the Mediterranean and the need for a holistic EU approach to migration, the European Parliament underlined *inter alia* that:

- The adoption by the Commission of a Union action plan against migrant smuggling on 27 May 2015 was a positive step forward;
- Any holistic approach to migration must necessarily contain measures aimed at disrupting the activities of criminal networks involved in the trafficking and smuggling of people;
- Union agencies should cooperate fully, but that at the same time they would also need to step up cooperation with Member States to fight criminal smuggling;
- Another crucial step in dismantling criminal smuggling and trafficking networks was to prioritise financial investigations, including tracking and confiscating the profits of those networks.

In its resolution of 22 February 2017 on addressing refugee and migrant movements: the role of EU External Action, the European Parliament welcomed the EU Action Plan against migrant smuggling which envisages closer cooperation with third countries, but underlined that the implementation of a common EU legal migration policy would play a crucial role in breaking the business model of

smugglers and tackling human trafficking.

On 22 February 2016, Europol launched the new European Migrant Smuggling Centre (EMSC). The goal of the Centre is to support EU Member States proactively in dismantling criminal networks involved in organised migrant smuggling. It will focus on geographical criminal hotspots, and will build a better capability across the European Union to fight people smuggling networks.

On 10 March 2016, the Council adopted conclusions on migrant smuggling. It emphasised that all forms of migrant smuggling, both in countries of origin and transit, should be addressed.

In its conclusions, the Council invites the Commission inter alia to:

- Co-operate with the Member States to ensure the effective implementation of the EU action plan against migrant smuggling;
- Use relevant financial instruments at EU level, and most notably the Madad Trust Fund set up as a response to the Syrian crisis, the emergency Trust Fund for Africa and the Turkey Refugee Facility, to address the push and pull factors of migrant smuggling;
- Support the Member States in setting up a network of single contact points to foster operational cooperation on migrant smuggling in order to ensure a single entry point and to facilitate cross-border cooperation and exchange of complete and accurate information between Member States;
- Engage in an EU-wide dialogue with Member States and the private sector, in particular the transport sector, in order to develop, explore and share best practices, codes of conduct and guidelines to prevent migrant smuggling and cope with associated risks.

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In the context of the current strong migration pressure at Europe's borders and the need to reduce incentives for irregular migration, the June 2015 European Council emphasised the need to strengthen the EU return policy. According to Eurostat, in 2014 only 34% of return decisions were effectively implemented.

The European Agenda on Migration, adopted by the European Commission on 13 May 2015, highlighted that knowledge of the EU's system of return of irregular migrants being insufficiently effective constitutes an incentive to irregular migration.

The European Council of 25 and 26 June 2015 invited the Commission to set up a dedicated European Return Programme and to make a relevant proposal in the framework of the 2016 budget.

Announced by Commission President Juncker in his State of the Union address of 9 September 2015, the Communication on an EU Action Plan on return answers this call for a dedicated return programme. The 'Return Handbook', adopted together with this action plan, provides guidelines, best practices and recommendations for carrying out return in an effective and humane manner.

In order to enhance the effectiveness of the EU's system for returning irregular migrants, adequate resources are needed. Building on the European Return Fund, the Asylum, Migration and Integration Fund (AMIF) will support substantially the return activities of the Member States, which are planning to devote more than €800 million to return in their national programmes in the period 2014-2020.

The main action points envisaged in the Communication aim at:

- Enhancing voluntary return;
- Stronger enforcement of EU rules;
- Enhanced sharing of information to enforce return;
- Strengthening the role and mandate of Frontex (European Border and Coast Guard Agency - EBCGA) in this respect;
- An integrated system of return management.

Subsequently, on 2 March 2017, the Commission adopted a renewed action plan and a recommendation to better ensure the effective implementation of the existing EU legislation on return. The package emphasises the following, among other things:

- Member States should ensure that return decisions are quickly issued and enforced and should better use the EBCGA;
- Member States should fight abuses of the asylum system and use the possibility to place migrants in detention, if there is a risk of

absconding;

- The detention should be for a sufficient period to allow for the completion of return and readmission procedures;
- Member States should align assisted voluntary return and reintegration packages to avoid 'assisted voluntary return shopping';
- Member States should have in place operational assisted voluntary return programmes by 1 June 2017.

In his 2017 State of the Union Letter of Intent the Commission president Juncker announced that by the end of 2018 the Commission will present targeted measures to promote a more effective approach to returns. On 27 September 2017, the Commission published a revised Return Handbook that includes recommendations to national authorities in order to streamline national return policies in line with the 2017 Commission Recommendation and the Renewed Action Plan on Returns. It also announced that the Return Department within the EBCGA will be significantly reinforced to ensure the Agency can drive and coordinate the EU-wide management of returns.

On 13 October 2016, the EP and the Council adopted a proposal for a European travel document for the return of illegally staying third-country nationals. The European travel document for return should help achieve the objectives set out in the Agenda on Migration.

The European parliament in its resolution of 12 April 2016 on the situation in the Mediterranean and need for a holistic EU approach to migration:

- acknowledges that there is a need to improve the effectiveness of the Union's return system;
- considers that in order to increase the efficiency of readmissions, and in order to ensure the coherence of returns at a European level, it will be necessary to adopt new EU readmission agreements which should take preference over bilateral agreements between Member States and third countries;
- believes that the return of migrants should only be carried out in full compliance with their fundamental rights, ensuring that the country to which they are being returned is safe for them;
- suggests that any attempt by Member States to 'push back' migrants who have not been given the opportunity to present asylum claims runs contrary to Union and international law, and that the Commission should take appropriate action against any Member State that attempts such 'push backs'.

In its resolution of 5 April 2017 on addressing refugee and migrant movements the EP stresses that:

- any dialogue on return and readmission should systematically address the issue of the safe return and reintegration of migrants;
- no one should forcibly be sent or returned to countries in which their life or liberty may be threatened;
- a recognition of a new European document for returns needs to be systematically promoted in any new readmission agreement;
- that returns can only take place after due consideration of each individual case, and that the EU and the Member States need to allocate the necessary resources to speed up current administrative and judicial procedures.

On 27 March 2017, the Justice and Home Affairs Council discussed the return and readmission policy based on the Commission action

plan and recommendation. The Council discussion focused on the establishment of the right procedures and systems to ensure effective returns and on improving the cooperation by third countries on readmission.

On 9 June 2017, ministers, represented in the Justice and Home Affairs Council, were briefed on the state of play regarding the implementation of the Commission recommendation on return. They stressed that the EU return policy needs to be reinforced and made more efficient and that the cooperation with third countries in the field of return and readmission needs to be improved.

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JD - REVISION OF THE DUBLIN REGULATION

[ DEPARTURES]

>  EUROPEAN AGENDA ON MIGRATION

1

>  STRONG ASYLUM POLICY

CONTENT

The Dublin III Regulation has been in force as of 1 January 2014 and replaces the 2003 Dublin II Regulation and the original Dublin Convention signed on 15 June 1990.

On 4 May 2016 a legislative proposal for reform of the Dublin system. The proposal provides for:

- new applicants' relocation from countries receiving disproportionate numbers to other Member States;

- shorter time limits for sending transfer requests, receiving replies and carrying out transfers of asylum seekers between Member States, and removing shifts of responsibility;
- discouraging abuse/secondary movements - obliging asylum applicants to remain in the Member State responsible for their claim, geographic limits to the provision of material reception benefits and proportionate consequences in case of non-compliance;
- stronger guarantees for unaccompanied minors and a balanced extension of the definition of “family members”.

On 19 October 2017, Parliament’s LIBE Committee to which the proposal was assigned (rapporteur: Cecilia Wikström - ALDE, Sweden), adopted a report on the reform and voted to start interinstitutional negotiations and on 6 November 2017, the European Parliament confirmed a mandate for interinstitutional negotiations. The main suggested amendments in the report are:

- a reference key based on Member States’ population size and economy serving as a reference point in corrective allocation mechanism’s operation;
- no transfer of asylum applicants representing a security risk between Member States;
- no transfer between Member States of asylum applicants not needing specific procedural guarantees and considered to be manifestly unlikely to qualify as an international protection beneficiary;
 - processing together of family applications for international protection without prejudice an applicant’s right to lodge an application individually;
- individual guarantees for minor asylum applicants and assessment of their best interests;
- links to a particular country as the first relocation criteria;
- a clear system of incentives and disincentives for asylum applicants to avoid absconding and secondary movements and need to clearly define the meaning of absconding;

The Council endorsed in October 2016 the Slovak Presidency’s three-track approach for examining CEAS reform (examining the Eurodac regulation and on the European Union Agency for Asylum regulation; discussing the Dublin regulation and the Asylum Procedures regulation, Reception Conditions directive and Qualification regulation; technical examination of the regulation establishing a Union Resettlement Framework). At the December 2016 Council meeting the Maltese Presidency announced CEAS and Dublin regulation reform as a major priority, following up on the implementation of measures which have already been agreed to.

In June 2017 the JHA Council meeting continued work on a compromise on the responsibility and solidarity principles’ effective application and also examined articles of the Dublin Regulation relating to guardianship and limiting abuse and secondary movements. In December 2017 the Council pointed out that the Estonian Presidency had tried to consolidate agreement on the more consensual items in bilateral contacts with delegations and to find more common ground on issues where the compromise had not proved possible. It also added that it would further seek consensus during the first half of 2018.

In the meantime, in December 2017 the European Commission referred the Czech Republic, Hungary and Poland to the Court of Justice of the EU for non-compliance with their legal obligations on relocation, after launching infringement procedures against them in June 2017.

On 25 January 2018 the Bulgarian presidency (January-June 2018) aiming to achieve progress in CEAS reform, including on the Dublin Regulation, organised an informal meeting of home affairs ministers in Sofia. It noted that the other Member States shared its focus on the CEAS' greater effectiveness, sustainability, the causes of migration and migrants trafficking and of border security management aspects. It further stressed its aim to continue work on an expert level and prepare a political consensus (general approach) by June 2018, with a major priority on the Dublin Regulation. In search of this consensus the Presidency added that it would leave the question of refugee quotas for last, and instead focus on discussing individual articles of the proposal in search of consensus.

In the meantime, on 15 February 2018 the Hungarian government announced that it would propose alternative amendments to the Dublin Regulation based on a focus on security and a strict expulsion policy, and rejection of any kind of mandatory admittance quota.

On 11 April 2018 Coreper discussed further the issue (the document is not publicly available).

In addition, in April 2018 the Bulgarian presidency reiterated its focus on the reform of the asylum system, and the Dublin Regulation in particular, with the aim of reaching a consensus (a general approach) on fair reform of the asylum system based on solidarity by the European Council in late June 2018.

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On 4 May 2016, the Commission submitted, along with other proposals, a proposal for a regulation on the European Union Agency for Asylum (repealing Regulation (EU) No 439/2010 establishing EASO). This proposal, based on Article 78(1) and (2) of the TFEU, amends and expands the 2010 Regulation's provisions, in order to develop it into an agency which facilitates implementation and improves the European Asylum Support Office's (EASO) functioning.

The European Parliament's LIBE Committee (rapporteur Péter Niedermüller - S&D, Hungary) approved a negotiating mandate and team on 8 December 2016 with a view to reaching a first-reading agreement with the Council on the legislation. On 21 December 2016, Parliament adopted a report on the proposal in first/single reading, focusing on the following:

- the current EASO should become a fully-fledged EU Agency with the means and mandate necessary to assist Member States in crisis situations and provide them with the necessary operational and technical assistance;
- it should be provided with a mandate corresponding to the overall aim of strengthening CEAS;
- EASO should be strengthened on the basis of high standards and in compliance with the EU Charter on Fundamental Rights;
- the agency should be provided with sufficient technical, financial and human resources based on Member States' contribution and appropriate for its new tasks, including staff for expert teams evaluating and monitoring asylum and reception systems procedures;
- the importance of cooperation between the Agency and other European bodies and agencies, especially the European Border and Coast Guard Agency;
- the Agency should be able to deploy liaison officers to the Member States to assist in CEAS implementation - e.g. family reunification cases and concerning unaccompanied children and vulnerable persons;

On 29 June 2017, the LIBE Committee voted on the provisional agreement resulting from interinstitutional trilogue negotiations.

The Council noted in October 2016 the significant progress achieved, endorsing the Slovak Presidency's suggested three-track approach for examining CEAS reform package proposals (also including the Union Agency for Asylum regulation), with the aim of achieving progress towards a Council general approach by December 2016.

On 8-9 December 2016 the JHA Council noted the support of a majority of Member States for EASO becoming a fully-fledged agency, well equipped for CEAS implementation. However, it also stressed Member States' concerns about the potential overlap of the agency's monitoring and assessing mechanism of Member States' asylum and reception systems and Commission powers and some Member States' preference to play a greater role in the monitoring exercise. Hence, the Presidency redrafted the relevant provisions of

proposal, though a number of delegations continue to retain reservations on the issue of monitoring. Following the agreement on a partial general approach in Council on 20 December 2016, the Presidency started negotiations with the European Parliament in January 2017 and five informal trilogues took place between 7 February and 1 June 2017.

During the 28 June 2017 trilogue, the Maltese Presidency of the Council and European Parliament representatives reached a broad provisional political agreement on all twelve chapters of the proposed regulation on the European Union Agency for Asylum.

On 12-13 October 2017, the JHA Council meeting noted that following the broad political agreement of June 2017, technical work was now focusing on finalising the text and aligning the recitals of the text with the main body of the CEAS reform proposal package

On 6 December 2017 Coreper endorsed in first reading the agreement reached with the European Parliament on the entire text of the proposal, including the recitals, but excluding the text placed in square brackets referring to other proposals of the CEAS. Further work on the proposal has been postponed pending developments in the negotiations on the rest of the CEAS package.

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REFORM OF THE COMMON EUROPEAN ASYLUM SYSTEM (CEAS)

[ DEPARTURES]

- >  EUROPEAN AGENDA ON MIGRATION
- >  STRONG ASYLUM POLICY

1

CONTENT

The EU Treaties set the objective of a uniform asylum status valid throughout the Union. Yet, the Common European Asylum System' (CEAS) uneven implementation in Member States provides an incentive for asylum-seekers to apply for asylum in those Member States where it is most likely to be granted. Consequently, the majority of claims are granted in only a few of the 28 Member States.

On 6 April 2016, the Commission presented a communication entitled 'Towards a reform of the Common European Asylum System and enhancing legal avenues to Europe'.

On 4 May 2016, the Commission adopted the first package of proposals for CEAS reform with the following initiatives:

- Proposal for a regulation to reform the Dublin system;
- Proposal for a regulation to amend Eurodac;
- Proposal for a regulation to establish an EU Asylum Agency which is to replace the European Asylum Support Office (EASO).

On 13 July 2016, the Commission put forward the second package of proposals for CEAS reform. The package includes:

- A proposal for a new regulation to replace the Asylum Procedures Directive;
- A proposal for a new regulation to replace the Qualification Directive;
- Proposed targeted modifications of the Reception Conditions Directive.

Parliament's Resolution on the situation in the Mediterranean and the need for a holistic EU approach to migration of 12 April 2016 stressed that many alerts, including the infringement decisions adopted by the Commission, show that the CEAS has not been fully implemented in many Member States. It underlined that implementation was essential for harmonising national laws and promoting solidarity among Member States, and that Member States can seek supporting assistance from EASO to meet the standards required by the CEAS. Parliament also noted that the harmonisation of reception conditions and asylum procedures can help avoid stress on countries offering better conditions and are key to responsibility sharing.

For more detailed information on the further state of play concerning the individual legislative proposals, see the relevant files:

- REVISION OF THE DUBLIN REGULATION;
- RECAST EURODAC REGULATION;
- STRENGTHENING EASO;
- REFORM OF THE ASYLUM PROCEDURES DIRECTIVE;
- REFORM OF THE QUALIFICATION DIRECTIVE;
- REFORM OF THE RECEPTION CONDITIONS DIRECTIVE;
- EU RESETTLEMENT FRAMEWORK.

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INTEGRATION OF MIGRANTS

[ DEPARTURES]

- >  EUROPEAN AGENDA ON MIGRATION
- >  NEW POLICY ON LEGAL MIGRATION

1

CONTENT

On 7 June 2016, the European Commission presented an Action plan on integration of third country nationals. It focuses on a comprehensive framework supporting Member States' efforts in developing and strengthening their migrant integration policies, and describes the concrete policy, operational and financial measures to be implemented by the Commission. While targeting all third-country nationals in the EU, it also contains actions to address specific challenges faced by refugees. In particular, these include measures in the field of education, labour market and vocational training, access to basic services, active participation and social inclusion.

On 7 June 2016, the EP Plenary debated the proposal with Commissioner Dimitris Avramopoulos. MEPs stressed the importance of integration (e.g. access to education and to the labour market), arguing that this would benefit socially and economically both migrants and hosting societies. Though integration was recognized as national and particularly regional and local matter, it was

agreed that the EU has a supporting role to play, both in terms of coordination and of financial support, given the same demographic challenges and labour shortages experienced by many Member States.

In addition, on 10 June 2016, the European Commission presented a non-legislative proposal for a New Skills Agenda for Europe. Concerning third-country nationals the Commission envisaged the launch of a '*Skills Profile Tool for Third Country Nationals*' assisting receiving and host countries to identify and document skills, qualifications and experience of newly-arrived third country nationals. It also stated it would work with national authorities to support migrants' skills' and qualifications' recognition, including those of refugees, and provide online language learning for newly arrived migrants, including refugees, through Erasmus + online linguistic support.

The European Parliament adopted a Resolution on the New skills agenda for Europe on 14 September 2017. It focused on the following general and specific points:

- the need for a paradigm shift in the goals and functioning of the education sector;
- the importance of close collaboration with the European Centre for the Development of Vocational Training (Cedefop) to anticipate skills needs and develop a pan-European skills needs forecasting tool and lifelong learning;
- the need for Member States to also focus on soft skills broadly relevant to society - e.g. leadership, social and intercultural skills, management, volunteering, foreign languages etc.;
- the need for more sustained approach towards third-country nationals - skills competences and knowledge assessment and a skills recognition and validation mechanism;
- the need for rapid progress in the Commission proposal's the Skills Profile Tool for third-country nationals.

The December 2016 Council conclusions on the integration of third-country nationals legally residing in the EU acknowledged the Commission's action plan and the New Skills Agenda for Europe and the Commission's efforts to secure available funding. The Council also invited Member States to exchange best practice, actively use tools under the New Skills Agenda for Europe and improve monitoring and assessment of integration outcomes and integration policies. The Commission is invited to support Member States, allocate more EU budget resources, ensure better coordination and exchanges between national and EU level expert groups, explore new ways of cooperation, and closely and regularly monitor and report to the Council and the European Parliament.

The May 2017 Education, Youth, Culture and Sports Council also noted the New Skills Agenda's role in contributing to the improvement of employability and mobility of European citizens. The Bulgarian presidency has also stressed in January 2018 that progress on the New Skills Agenda for Europe would be a major priority. On 15 and 16 February 2018 the New Skills Agenda was the subject of a "European Conference "Investing in people – the way forward" organised under the Bulgarian Presidency.

In January 2018, the Commission published a Toolkit on the Use of EU Funds for the Integration of People with a Migrant Background, aiming to support national and regional funding authorities in designing strategies and projects to integrate migrants and identify available EU resources for the integration of migrants. In February 2018, the Toolkit was the subject of a parliamentary question on the

Commission's position in the document that a high concentration of asylum-seekers in one location slowing down the integration process. The Commission answered the question on 29 May 2018. pointing out that this was the result of independent studies on the issue.

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JD - REVISION OF THE BLUE CARD DIRECTIVE

[DEPARTURES]

- > **EUROPEAN AGENDA ON MIGRATION**
- > **NEW POLICY ON LEGAL MIGRATION**

1

CONTENT

The EU Treaties reserve the final decision on the admission of economic migrants for Member States. However, considering the ageing of the EU population and the skills mismatch in Europe, especially in health care, ICT and engineering, it is essential to use the potential benefits of legal migration and be attractive for highly skilled workers.

In 2009, the EU adopted the so-called Blue Card Directive, which regulates the conditions for entry and residence of highly qualified third-country workers and establishes an EU wide permit for them. The United Kingdom, Ireland and Denmark do not apply the Directive.

The 2009 Blue Card scheme has proven insufficient and unattractive so far, and is therefore underused. Its use has been curtailed due to restrictive admission conditions and the existence of parallel national schemes. The EU in general has been an insufficiently attractive destination for the highly qualified.

In April 2014, Jean-Claude Juncker presented a five-point plan on migration, including a call for Europe to show more political

determination when it comes to legal migration. In his Political Guidelines, he announced his intention to promote a new European policy on legal migration to address skills shortages and attract talent, including through a review of the EU Blue Card. In his State of the Union Address 2017, Commission president Juncker reiterated the importance of legal migration and called for 'an ambitious and swift agreement' on the revised Blue Card. In its review of progress on the 2015 European Agenda on Migration on 27 September 2017, the Commission called on the Council and the Parliament to swiftly agree on and adopt the proposal for a revised Blue Card.

When it put forward the Agenda on Migration in May 2015, the Commission also launched a public consultation on the Blue Card Directive with a view to its modernisation and improvement. Its results were published on 6 April 2016. The Commission also announced in its 2015 Work Programme that it would carry out a fitness check of the 2003 Long-Term Residents Directive and the 2011 Single Permit Directive. It was launched in September 2016.

On 7 June 2016, the European Commission presented an Action Plan to support Member States in the integration of third-country nationals and their economic and social contribution to the EU, as well as a legislative proposal to reform the Blue Card scheme for highly skilled workers coming to the EU to work. The aim of the revised EU Blue Card scheme is to make it easier and more attractive for highly skilled third-country nationals to come and work in the EU, thus supporting European businesses in attracting qualified and talented people from around the world. Improvements include, inter alia, less stringent admissions criteria, such as lower salary threshold and shorter required length of work contracts, better family reunification conditions, facilitated mobility, and the abolishment of parallel national schemes. On 7 December the Commission presented a roadmap to a deal by June 2018 on the comprehensive migration package in which it aims for an agreement on the Blue Card file between the Council and the Parliament by June 2018.

The European Parliament had called for an 'ambitious and targeted' revision of the Blue Card Directive in its 2016 resolution on the situation in the Mediterranean and the need for a holistic EU approach to migration. It also drew attention to the needs of refugees in its 2016 resolution on the social inclusion and integration into the labour market of refugees. The proposal for the new Blue Card Directive was referred to the Committee on Civil Liberties, Justice and Home Affairs (LIBE). Its draft opinion was published on 26 January 2017, and the amendments were published on 17 February 2017. The Committee adopted the report and voted to open interinstitutional negotiations on 15 June 2017. Committee on Employment and Social Affairs was invited to give an opinion, with Jean Lambert (Greens, UK) as the rapporteur. Draft opinion was published on 11 January 2017 and amendments were published on 9 February 2017. The opinion was adopted in the EMPL Committee on 30 May 2017.

The Council working party started working on the Commission proposal in July 2016. The subsequent Council presidencies (Malta, Estonia) declared their support for work and progress on the file, which resulted in the Council agreeing on a mandate for negotiations with the Parliament on 26 July 2017. The first trilogue took place on 12 September 2017, and the subsequent meetings were scheduled for 18 October, 27 November and 14 December. The Council achieved no compromise on the inclusion of skills and the recognition of professional experience equivalent to education qualifications. The Parliament was disappointed but is keeping the door open. On 20 December the Council discussed the state of play of the file. In its programme, the Bulgarian presidency said that it would strive to achieve progress on the Blue Card Directive as part of its efforts to improve the management of migration processes

through improving the channels of legal migration, but there has been no recent progress on the file.

The Committee of the Regions adopted its opinion on legal migration (rapporteur O. Geblewicz, EPP, Poland) at its plenary session on 8 December 2016. It welcomes the Commission's proposal and sets out measures for greater involvement at local and regional level. The Economic and Social Committee adopted its opinion (rapporteur: P. Clever, Germany) at its plenary session on 14 December 2016.

The subsidiarity deadline for national parliaments to give their reasoned opinion was 22 September 2016. Two Member States (Bulgaria and the Czech Republic) issued reasoned opinions, expressing concerns over subsidiarity and proportionality of the proposal. National parliaments from five other Member States sent contributions (Austria, Italy, Poland, Portugal, and Romania).

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SAFE AND LEGAL CHANNELS FOR MIGRATION

[ DEPARTURES]

> EUROPEAN AGENDA ON MIGRATION



> NEW POLICY ON LEGAL MIGRATION

CONTENT

In April 2016 the Commission Communication on Common European Asylum System (CEAS) reform and enhancing legal avenues to Europe proposed a proactive and sustainable European policy on legal migration based on five priorities:

- amending the Dublin regulation to ensure a sustainable and fair system for asylum seekers' allocation between Member States;
- adapting the Eurodac system to reflect changes in the Dublin mechanism and expanding its purpose beyond asylum;
- greater convergence in the EU asylum system;
- preventing secondary movements within the EU;
- a new mandate for the EU's asylum Agency.

In its April 2016 Resolution on the situation in the Mediterranean and the need for a holistic EU approach to migration, Parliament highlighted the need for safe and legal routes for refugees and highly skilled workers from abroad and third-country nationals' better integration.

Following the CEAS reform communication, the Commission presented in June 2016 a proposal for **Reforming the Blue Card Directive by offering more flexible admission conditions, improved admission procedures and enhanced rights** (see the file on THE BLUE CARD DIRECTIVE) and **An action plan to support Member States in third-country nationals' integration and their economic and social contribution to the EU** (see the file on INTEGRATION OF MIGRANTS).

Two other major related Commission actions include the July 2016 **EU Resettlement Framework** proposing a common European resettlement policy ensuring orderly and safe pathways to Europe for persons needing international protection, in the context of CEAS reform, and long-term better migration management under the May 2015 European Agenda on Migration (EAM). A particular focus here is the EAM-related new results-oriented **Partnership Framework for cooperation with key third countries of origin and transit** announced in June 2016;

Concerning the **EU Resettlement Framework**, the European Parliament's LIBE Committee adopted a report at first/single reading (rapporteur - Malin Björk, GUE/NGL, Sweden) on 23 October 2017, focusing on the following points:

- resettlement complements other legal international protection routes (humanitarian visas, humanitarian admission programmes etc.) and does not replace them;
- the Framework should be based on most vulnerable refugees' humanitarian needs, alleviate protracted refugee situations, and be aligned with existing international resettlement structures (e.g. UNHCR);
- the Framework should base itself on the UNHCR's thorough assessment of most urgent global resettlement needs;
- the Framework resettlement target should be minimum 25% of the Annual Projected Global Resettlement Needs (some 250,000 people);
 - the European Union Asylum Agency (EASO) should provide operational support to EU Member States starting their first resettlement programmes;
- Member States need an additional incentive' to participate in the Resettlement Framework, apart from existing funds for resettled persons from Asylum. Migration and Integration Fund (AMIF);
 - Member States should issue permanent/unlimited residence permits to resettled persons on more favourable terms and facilitate integration;
- a robust EU Resettlement Framework should be combined with other legal pathways.

The Council has welcomed the proposal's objectives, but some delegations expressed concerns about a possible broadening of the humanitarian admission procedure's flexibility to people not needing international protection and the possibility to grant temporary status under national law. The Estonian Presidency aimed to try to reach a general approach on this proposal before the end of its term.

In October 2017, JHA Councillors examined the Estonian Presidency's draft compromise proposals, noting progress on many of the proposal's aspects, but pointed out some unresolved issues (i.e. "resettlement" and "humanitarian admission" definitions and scope, status given to the persons admitted). It also noted the Presidency's aim to reach a Council's mandate for starting negotiations with the European Parliament at the earliest opportunity.

In December 2017, the Council noted that the negotiations' mandate with the European Parliament accommodated most Member States' concerns and was more flexible by including humanitarian admission and reflecting resettlement's voluntary nature. A first trilogue with Parliament took place on 13 December 2017. As of 30 May 2018, four trilogues have taken place under the Bulgarian Presidency, allowing some progress on several elements of the proposal, with more trilogues scheduled until the end of June with the aim of reaching political agreement by the end of the Presidency's term.

Concerning the **Partnership Framework for cooperation**, Parliament debated the proposal on 7 June 2016, following its presentation by High Representative Federica Mogherini. It welcomed cooperation with African countries, but criticised the potential duplicating of the Turkey deal with other third countries.

In June 2016, the European Council endorsed the establishment of a new Partnership Framework to deepen cooperation with key African countries of origin and transit, also broadening its geographical scope to other partner countries. In December 2016, it further

acknowledged the Framework as a tool addressing illegal migration's root causes (particularly concerning the Central Mediterranean route). It also welcomed the implementation of the compacts with five African countries of origin or transit and partner countries' growing ownership, suggesting potential additional compacts or other forms of cooperation depending on available resources.

In September 2017 the Commission adopted the fifth Partnership Framework progress report.

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STATUS OF LONG-TERM RESIDENT 3RD COUNTRY NATIONALS – POSSIBLE REVIEW / AFTER 2016-9

[ DEPARTURES]

- >  EUROPEAN AGENDA ON MIGRATION
- >  NEW POLICY ON LEGAL MIGRATION

CONTENT

The 2003 directive on the status of third-country nationals who are long-term residents allows Member States to grant long-term resident status to third-country nationals, including beneficiaries of international protection, who have resided legally and continuously in a Member States for 5 years and who fulfil a set of other conditions, such as stable and regular resources.

The Commission's 2015 work programme announced a fitness check of the 2003 directive. The Commission intends to assess the fitness of the legal migration acquis and propose possible changes.

In September 2016 the Commission launched the announced fitness check on legal migration as part of the REFIT evaluation including both the Long-Term Residents Directive (2003/109/EC) and the Single Permit Directive (2011/98/EU). It is expected to complete it in the first quarter of 2018 with the adoption of a report on the fitness check. In June 2017, the Commission launched a two-month public consultation on the subject which ended on 19 September 2017. A summary of the public consultation's results was published in December 2017. The Commission has also announced that the results of this Fitness check would be presented by mid-2018 and provide a basis for simplifying and streamlining the current EU framework in the legal migration area.

In parallel, on 13 July 2016, the Commission proposed an amendment of Directive 2003/109/EC in the context of the Proposal for a Regulation on standards for third-country nationals' or stateless persons' qualification as beneficiaries of international protection. It has suggested that the 5-year period after which international protection beneficiaries are eligible for the Long Term Resident status should restart each time the person is found in a Member State, other than the one that granted international protection, without a right to stay or to reside there in accordance with relevant Union or national law. This provision is seen as an incentive for beneficiaries of international protection to comply with the rules governing intra-EU mobility.

For further details on the interinstitutional proceedings related to the amendment of Directive 2003/109/EC see the file on REVISION OF THE QUALIFICATION DIRECTIVE.

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SINGLE PERMIT DIRECTIVE – POSSIBLE REVIEW / AFTER 2016-9

[ DEPARTURES]

>  EUROPEAN AGENDA ON MIGRATION

>  NEW POLICY ON LEGAL MIGRATION

CONTENT

The *Directive on a single application procedure for a single permit for third country nationals to reside and work in the territory of a Member State and a common set of rights for third-country workers legally residing in a Member State*, establishes a single application procedure and a single permit combining work and residence for third country workers. It also provides for a set of common rights to be granted (e.g. equal treatment with nationals as regards working conditions, access to certain social security benefits).

Currently, it is part of the Commission's REFIT-evaluation fitness check on legal migration (also involving the Long-Term Residents Directive (2003/109/EC)) conducted since September 2016, and is expected to be completed in the first quarter of 2018, with the

adoption of a report on the fitness check. Depending on the legal migration acquis assessment's outcome, the Commission intends to propose possible changes.

As part of the fitness check, on 19 June 2017, the Commission launched a two-month public targeted consultation on the subject which ended on 19 September 2017. A summary of the consultation's results was published in December 2017. The Commission has also announced that the results of this Fitness check would be presented by mid-2018 and be taken into consideration in the preparation of the Commission report. They will also provide a basis for simplifying and streamlining the current EU framework in this area.

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NEW MIGRATION PARTNERSHIP FRAMEWORK EXTERNAL COMPONENT OF MIGRATION POLICY

[ DEPARTURES]

1

CONTENT

Background

Europe has been experiencing unprecedented irregular migratory flows, driven by geopolitical and economic factors. They are fuelled by unscrupulous smugglers who seek to benefit from the desperation of the vulnerable. To complement the external EU action on migration, on 7 June 2016 the European Commission set out a new partnership framework with third countries under the European Agenda on Migration with the aim of developing tailor-made agreements (compacts) with key third countries of origin and transit in order to better manage migration.

Objectives of the proposal

The new partnership approach includes a mix of short and long-term actions and corresponding objectives. The short term objectives are to save lives in the Mediterranean Sea, increase rates of return to countries of origin and transit, and enable migrants and refugees to stay close to home avoiding taking dangerous journeys. Immediate action with partners will focus on improving the legislative and institutional framework for migration and capacity building on border and migration management, including providing protection to refugees.

Building on the experience of the cooperation with Turkey, effective returns are indeed crucial for breaking the business model of people smugglers. Dissuading people from taking these dangerous journeys also requires alternative legal pathways to Europe and greater humanitarian reception capacities closer to their place of origin.

Long-term objectives include the efforts to address the root causes of irregular migration and provide capacity. A mix of positive and

negative incentives will be integrated into the EU's development and trade policies to reward those countries willing to cooperate effectively with the EU on migration management and ensure there are consequences for those who refuse.

All EU policies, tools and resources are to help to support the partnership framework in an innovative, focused and coordinated way. In the longer term, the Commission is proposing to fundamentally reconsider the scale and nature of traditional development co-operation. The new European Fund for Sustainable Development (EFSD) is a pillar of an ambitious external investment plan. Building on the experience of the successful Investment Plan for Europe, the Commission aims to mobilise investments in developing third countries: €3.35 billion that will be used to this end from the EU budget and the European Development Fund (EDF) are expected to trigger total investments of up to €44 billion, and the potential to increase to €88 billion if Member States and other partners match the EU contribution.

The Council support

In its conclusions of 28 June 2016, the European Council endorsed the Commission proposal for a new partnership framework with third countries with a view to swiftly concluding the first compacts. First compacts were concluded at the end of 2016 with Jordan and Lebanon, to be followed by five priority countries: Niger, Nigeria, Senegal, Mali and Ethiopia, as well as Tunisia and Libya. Each compact will combine in an appropriate package the elements of different EU policies (such as a neighbourhood policy, development aid, trade, mobility, energy, security, etc) leveraged towards the same objectives.

The European Council took note of the first and second progress reports on the partnership framework with third countries at its meetings of 20 October 2016 and of 15 December 2016. It has recalled the importance of working for its swift implementation in order to prevent illegal migration and tackle its root causes. The fourth progress report underlining a number of tangible results in priority countries, and in particular good cooperation with Niger on border control and action against human trafficking, was presented on 13 June 2017, ahead of European Council of 22-23 June.

The European Parliament contribution

Through several recent resolutions, including the most relevant for this topic following the joint Foreign Affairs Committee and the Development Committees' report on the role of EU external action in addressing refugee and migrant movements adopted in early April 2017, the European Parliament has contributed to the ongoing redefinition of external aspects of EU migration policies. The main points stressed by the EP are:

- its support of a successful implementation of the human rights based EU migration policy and the need to address the root causes of illegal migration, forced displacement and combat human trafficking;
- success of the new partnership framework will depend on the EU's capacity to offer real and commonly agreed incentives to the partner countries; in the short term, compacts should focus on how best to address the challenges faced by partner countries, including by developing legal migration channels, as an alternative to illegal migration;

- the need to strengthen the link between migration and development policies; the development policy objectives to eradicate poverty should be better integrated into new EU migration policy;
- the need for EU development cooperation to remain unconditional and aim the fight against poverty
- concern over the main focus of the compacts on border management and a quantitative approach to returns that should be complemented by the support of development of local economies, qualification, and improved level of protection in countries of level and origins;
- concern over the lack of transparency in preparation of packages designed for priority countries and the form of the compacts concluded in a way that avoids European Parliament scrutiny.

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JD - RECAST EUROTAC REGULATION

[DEPARTURES]

- > EUROPEAN AGENDA ON MIGRATION
- > STRONG ASYLUM POLICY

1

CONTENT

On 4 May 2016, the European Commission presented proposals to reform the Common European Asylum System by creating a fairer, more efficient and more sustainable system for allocating asylum applications among Member States. To support the practical implementation of the reformed Dublin System, the Commission also proposed to review the Eurodac Regulation for fingerprinting migrants. The aim is to reinforce the system and to expand its purpose, facilitating returns and helping tackle irregular migration.

The proposal will extend the scope of the Eurodac Regulation to include the possibility for Member States to store and search data belonging to third-country nationals or stateless persons who are not applicants for international protection and found irregularly staying in the EU, so that they can be identified for return and readmission purposes. It will also allow Member States to store more personal data in Eurodac, such as names, dates of birth, nationalities, identity details or travel documents, and facial images of individuals. Increasing the information in the system will allow immigration and asylum authorities to identify an irregular third-country national or asylum applicant easily without having to request the information from another Member State separately, as is currently the case. Law enforcement authorities and Europol will continue to be able to search Eurodac to prevent, detect or investigate a serious crime or terrorist offence.

The new proposal permits Member States to introduce sanctions, in accordance with their national law, for those individuals who refuse to comply with the fingerprinting procedure. It is up to the Member State to decide the form of penalties or sanctions to be introduced, as long as it does not breach the fundamental rights of the individual concerned. The use of detention or any form of coercion should only be used as a means of last resort.

In his 2017 State of the Union Letter of Intent the Commission president Juncker called upon the EP and the Council to adopt the CEAS proposals by the end of 2018.

In its resolution of 12 April 2016 on the situation in the Mediterranean and the need for a holistic EU approach to migration, the European Parliament observed that proper identification of asylum applicants at entry points should contribute to the overall functioning of the CEAS.

The proposal was assigned to the Civil Liberties, Justice and Home Affairs Committee. The rapporteur, Monika Macovei (ECR, Romania), published her draft report on 2 February 2017. The text suggested extending the scope of the regulation to stateless persons in addition to third-country nationals, adding an option to make queries based on alphanumeric data, and simplifying and broadening Europol's access to the database.

On 7 March 2017, the draft opinion of the Committee on Budgets was presented by the rapporteur Gérard Deprez (ALDE, BE). The rapporteur noted that the cost of the proposal is estimated at €29 872 million, spread over four years, and found this sum proportionate to the intended ambition and scope of the recast.

The Civil Liberties, Justice and Home Affairs Committee adopted the report on 30 May 2017 by 35 votes to 10 with 8 abstentions and received a mandate for negotiations with the Council. The Committee held that Europol should have direct access to the EURODAC database holding fingerprints of asylum seekers. In addition to fingerprints, also facial images, names and ID-numbers should be stored in EURODAC, if available. In order to improve safety of refugee minors, children from the age of six should be fingerprinted to facilitate tracking and family reunifications. On 28 April 2017, the Maltese Presidency presented to delegations its suggestions for modifying the text of the draft Eurodac Regulation. The Presidency suggested adding a new category of data on admitted persons,

allowing law enforcement authorities to search in Eurodac on the basis of alphanumeric data and including colour copies of identity or travel documents. Based on these discussions, the Presidency presented a progress report on 9 June 2017, which was followed by an updated mandate in Coreper on 15 June 2017.

Trilogues are ongoing since September 2017. While common ground was found on most provisions of the recast Regulation, the Council and the EP continued to have divergent views on the length of the data storage period for asylum seekers. During the term of the Estonian Presidency, it has been agreed that the main database for asylum seekers fingerprints will be updated and law enforcement will be granted access. Certain open issues remain unresolved: data retention periods and information rights of data subjects. The file is now handed over to the Bulgarian Presidency. In a provisional agreement, the Parliament and the Council have agreed during the negotiations to store in addition to fingerprints, the facial images and alphanumeric data of asylum seekers and irregular migrants; to lower the age for obtaining fingerprints and facial images of minors from 14 to 6 years; and Europol will be able to enquire the database more efficiently.

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JD - REFORM OF THE ASYLUM PROCEDURES DIRECTIVE

[DEPARTURES]

> EUROPEAN AGENDA ON MIGRATION

1

> STRONG ASYLUM POLICY

CONTENT

In its communication 'Towards a reform of the Common European Asylum System (CEAS) and enhancing legal avenues to Europe' of 6 April 2016, the Commission acknowledged the inherent weaknesses of the EU asylum system in times of migratory crisis, and highlighted five priority areas where the CEAS should be structurally improved.

Achieving greater convergence in the EU asylum system is one of these five priorities. The objective pursued by the Commission is to strengthen and harmonise further the CEAS rules to ensure more equal treatment across the EU and to reduce undue pull factors to

come to the EU.

In order to achieve this goal, the Commission committed to proposing:

- A new regulation establishing a single common asylum procedure in the EU and replacing the Asylum Procedures Directive,
- A new Qualification Regulation replacing the Qualification Directive,
- Targeted modifications of the Reception Conditions Directive.

On 13 July 2016, the Commission put forward a legislative proposal on the reform of the Asylum Procedures Directive. The Commission proposed to replace the Asylum Procedures Directive with a regulation establishing a fully harmonised common EU procedure for international protection to reduce differences in recognition rates from one Member State to the next, discourage secondary movements and ensure common effective procedural guarantees for asylum seekers. The proposal aims to:

- Simplify, clarify and shorten asylum procedures;
- Ensure common guarantees for asylum seekers;
- Ensure stricter rules to combat abuse;
- Harmonise rules on safe countries
- Discourage secondary movements.

In his 2017 State of the Union Letter of Intent the Commission president Juncker called upon the EP and the Council to adopt the CEAS proposals by the end of 2018.

In its resolution of 12 April 2016 on the situation in the Mediterranean and the need for a holistic EU approach to migration, the Parliament stressed that harmonisation of reception conditions and asylum procedures can avoid stress on countries offering better conditions and are key to responsibility sharing. The European Parliament also underlined that:

- inadmissible applications, subsequent applications, accelerated procedures and border procedures were all specific cases in which the recast of the Asylum Procedures Directive tried to strike a delicate balance between the efficiency of the system and the rights of the applicants, in particular those of vulnerable persons;
- such a balance could only be achieved if the legislation was fully and properly implemented;
- the Commission proposal to amend the Asylum Procedures Directive to establish a Union list of safe countries of origin would have the potential to facilitate the asylum process, including return.

The proposal has been referred to the European Parliament Committee for Civil Liberties, Justice and Home Affairs (LIBE). Laura Ferrara (EFDD, IT) has been appointed rapporteur, whose draft report was presented on 30 May 2017. The EP Committees on Foreign Affairs (AFET) and Employment and Social Affairs (EMPL) decided not to give an opinion. The Members presented 1412 amendments. In the LIBE Committee of 25 April 2018, the report on the Asylum Procedure Regulation was adopted with 36 votes in favour, 12 votes

against and 8 abstentions. On 25 April, the LIBE Committee voted to enter into inter-institutional negotiations. On 22 May 2018, the Committee report on the proposal was tabled for plenary in single reading.

In the Council, the Asylum Working Party is examining the Common Procedure Regulation. By 28 November 2016, it took note that most Member States had entered scrutiny reservations and several of them also entered parliamentary reservations. In the progress report of 9 June 2017, the Presidency observed that despite general support for the proposal, Member States had voiced substantive reservations, in particular regarding applicants with special needs (unaccompanied minors and guardianship, medical examination, applications made by unaccompanied minors). Some delegations expressed concern relating to certain provisions aiming at limiting secondary movements, which in their opinion failed to strike the right balance between fighting abuse and granting protection when needed. In the progress report of 6 October 2017, the Presidency noted that the June European Council gave a clear mandate to the Council to align the Commission's proposal on the Asylum Procedures Regulation, regarding the safe third country concept, with the effective requirements of the Geneva Convention and the EU primary law. The draft compromise proposals put forward by the Presidency in relation to the safe country provisions were generally considered by the Member States as being in line with that mandate but have not secured a complete agreement yet.

General approach is expected under the Bulgarian Presidency.

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To complete Common European Asylum System (CEAS) reform, the Commission presented on 13 July 2016 a *'Proposal for a regulation on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection and for the content of the protection granted and amending Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents'*. The proposed Regulation replacing the Qualification Directive aims to ensure:

- Greater convergence of recognition rates and forms of protection: harmonising the type of protection and the duration of international protection beneficiaries' residence permits;
- Stricter rules sanctioning secondary movements: The five-year waiting period for international protection beneficiaries to become eligible for long term resident status would restart each time the person is found in a Member State where he/she does not have the right to stay or reside;
- Protection granted only for as long as it is needed: a compulsory status review taking into account changes in countries of origin which could impact the need for protection;
- Strengthened integration incentives: clarifying international protection beneficiaries' rights and obligations with regard to social security and social assistance; access to certain types of social assistance could be made conditional on participation in integration measures.

Parliament's LIBE Committee (rapporteur: Tanja Fajon S&D, Slovenia) decided on 15 June 2017 to enter into interinstitutional negotiations and tabled officially a report and the respective amendments to the proposal on 28 June 2017. Parliament's amendment focused on the following points:

- protection should be combined with integration rather than with punitive measures and secondary movement should be discouraged;
- EU security needs to be balanced with protection for third-country nationals in need;
- the length of refugees' and subsidiary protection beneficiaries' residence permits should be aligned to ensure for the latter a legal framework encouraging their integration;
- the proposed compulsory review of the of international protection beneficiaries' granted status needs to be amended due to the resulting administrative burden and the negative effect on individuals' integration;
- internal protection in one's own country of origin should remain as an option for Member States' in limited cases, and not as an obligation.

During the October and December 2016 the JHA Council meetings Member states raised, among others, a number of issues:

- possible direct financial and administrative burden from some of the Commission proposals;
- proposed compulsory systematic and regular protection status reviews;
- sanctions aimed at reducing secondary movements;
- Member States' obligation to consider the EU Asylum Agency's analysis and guidance on the situation in the country of origin;
- the choice of legal instrument (a Regulation instead of a Directive);
- definitions ('family members', 'withdrawal of international protection', 'social security', 'social assistance', 'guardian');
- Member States' burden to demonstrate internal protection availability;
- the deadline for the appointment of a legal guardian for unaccompanied minors.

In May 2017, Coreper reached agreement on the residence permit's validity period with the Maltese Presidency seeking to achieve an agreement on a partial general approach in Coreper.

The June 2017 JHA Council discussed draft compromise proposals on the definition of family members/families formed outside the country of origin, internal protection alternatives and the related burden of proof.

In July 2017 Coreper endorsed a negotiation mandate on a Regulation regarding the qualification standards, status and protection granted to refugees and persons eligible for subsidiary protection. It excluded, however, the definition of 'family members' and the issue of an annex containing the information to be provided to international protection beneficiaries.

The negotiations with the European Parliament started in September 2017. So far six trilogues have already taken place with numerous technical meetings in-between. The Bulgarian Presidency made sustained efforts to advance towards an agreement with the EP on the Qualification Regulation. In-depth and fruitful discussions took place at technical level and an important number of elements were clarified both with respect to the qualification criteria and to the rights and benefits granted to beneficiaries of international protection. These were also confirmed at political level. On certain important elements (e.g. the mandatory vs. optional use of the internal protection alternative, the mandatory vs optional nature of the review of the status, the definition of family members, the period of validity of residence permits) agreement was still to be obtained. Following the trilogue on 14 June the EP and the Council announced that an informal provisional agreement had been reached on the file and that it would be put on the vote in the LIBE Committee if there is confirmed progress towards an agreement on the Dublin Regulation following the EU leaders' summit on 28-29 June 2018.

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In its Communication 'Towards a reform of the Common European Asylum System (CEAS) and enhancing legal avenues to Europe' of 6 April 2016, the Commission acknowledged the inherent weaknesses of the EU asylum system in time of migratory crisis.

The objective pursued by the Commission is to strengthen and harmonise further the CEAS rules, so as to ensure more equal treatment of asylum applicants across the EU and reduce undue pull factors to come to the EU. For this purpose on 13 July 2016 it put forward a legislative proposal on the reform of the Reception Conditions Directive. The aim of the proposal is to ensure that asylum seekers can benefit from harmonised and dignified reception standards throughout the EU.

In his 2017 State of the Union Letter of Intent the Commission president Juncker called upon the EP and the Council to adopt the proposal on the reception conditions by the end of 2018. Along the same lines, the Commission in its Communication of December 2017 invited the EU Leaders to agree on reaching the political agreement between the EP and the Council on the Reception conditions directive by May 2018.

In its resolution of 6 July 2016, the European Parliament called for conditions to be created within the EU for well-managed reception of asylum-seekers that ensures their safety and humane treatment, paying particular attention to the needs of vulnerable groups. In its resolution of 5 July 2016, the Parliament called on the Commission to consider a targeted revision of the Reception Conditions Directive to ensure that applicants of international protection have access to the labour market as soon as possible after their applications are lodged. In its resolution of 12 April 2016, the Parliament stressed that harmonisation of reception conditions and asylum procedures can avoid stress on countries offering better conditions and are key to responsibility sharing.

In the Parliament, the proposal on the reform of the Reception Conditions Directive has been assigned to the Civil Liberties, Justice and Home Affairs Committee (LIBE).

The rapporteur Sophia in't Veld presented her draft report on 18 January 2017.

The LIBE Committee adopted the draft report on 25 April 2017.

The report adopted by the LIBE Committee disagrees with the punitive approach proposed by the Commission towards applicants who try and move illegally to another Member State. Instead it proposes to strengthen measures needed to de-incentivise asylum applicants from leaving the Member State responsible.

According to the report, asylum-seekers should be able to work in the EU no later than two months after applying for asylum, instead of the current nine months. However, Member States may still fill a vacancy through preferential access by their nationals, other EU citizens or by third-country nationals lawfully residing in the country.

As regards detention of asylum-seekers, this should be a measure of last resort and should always be based on a decision by a judicial authority. Detention or any confinement of children, whether unaccompanied or with families, should be prohibited. Member States must ensure that every unaccompanied minor gets a guardian from the moment of his or her arrival in the EU, as well as immediate access to health care and education under the same conditions as national minors.

The report also stresses that extra measures are necessary to protect the fundamental rights of applicants with special needs, and that rapid identification of those applicants and training of personnel in this regard are important.

Following the adoption of the report in the LIBE committee, the EP at the plenary session of 17 May 2017 adopted a decision to enter into interinstitutional negotiations. First trilogues are foreseen to start in December 2017.

On 29 November 2017, the Permanent Representatives Committee (Coreper) endorsed, on behalf of the Council, a mandate for trilogue negotiations on a proposal for the directive. The main elements of the mandate include:

- applicants should receive an adequate standard of living and comparable living conditions in all member states;
- access to reception conditions should be provided in a member state responsible for the application for international protection;
- applicants should be afforded material reception conditions and access to health care and shall have access to the labour market no later than 9 months after lodging an application;
- applicants may be required to cover or contribute to the costs of their reception conditions if having sufficient means;
- member states may restrict applicants' freedom of movement within their territory, assign them a specific place, define reporting obligations and, in case of risk of absconding, may make use of detention;
- EU asylum agency shall assist member states in their preparation of contingency plans for the events of disproportionate number of applicants.

On 14 June 2018, the EP and the Council reached a provisional agreement on the recast regulation. Under the deal, asylum-seekers will be allowed to work 6 months after requesting asylum, instead of current 9 months. Furthermore, they should get access to language courses from day one. Minors cannot be sent to prison, while detention of children will only be possible for family unity and protection purposes. The informal deal will only be put to a vote in the Civil Liberties Committee, and subsequently in plenary, once there is confirmed progress towards an agreement on the Dublin Regulation.

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SMARTER INFORMATION SYSTEMS

[ DEPARTURES]

- >  EUROPEAN AGENDA ON MIGRATION
- >  SECURING EXTERNAL BORDERS

1

CONTENT

On the occasion of presenting a new, revised Smart Borders package on 6 April 2016, the Commission also published a communication on 'Stronger and Smarter Information Systems for Borders and Security', which explores how information systems can become more effective and efficient in enhancing external border management and internal security in the EU. The communication was designed as the start of a process for setting up an Expert Group on IT systems and interoperability at senior level with EU agencies, national experts and institutional stakeholders.

In June 2016, the Commission set up the High-Level Expert Group on Information Systems and Interoperability, which presented its final report on 11 May 2017. The Expert Group concluded that it is necessary and technically feasible to work towards the following three solutions for interoperability and that they can, in principle, both deliver operational gains and be established in compliance with data protection requirements:

1. a European search portal;
2. a shared biometric matching service; and
3. a common identity repository.

In the Expert Group's view, the option of interconnectivity of systems should only be considered on a case-by-case basis. One such

case is the interconnection of the proposed EU Entry/Exit System (EES) and the Visa Information System (VIS).

On 16 May 2017, the European Commission presented its seventh progress report towards an effective and genuine Security Union. Building on the work of the High-Level Expert Group on Information Systems and Interoperability, the communication outlines a new approach on how to achieve interoperability of information systems for security, border and migration management by 2020.

In his 2017 State of the Union Letter of Intent the Commission president Juncker called upon the EP and the Council to adopt the Entry/Exit system by the end of 2018.

In the European Parliament, the communication was assigned to the Civil Liberties, Justice and Home Affairs Committee on 15 April 2016. On 4 September 2017, the Committee exchanged views on the progress towards the interoperability of EU information systems with Dimitris Avramopoulos, Member of the EC in charge of Migration, Home Affairs and Citizenship and Krum Garkov, Director of eu-LISA. Commissioner Avramopoulos assured that interoperability can be achieved in full respect of fundamental rights, especially data protection, and expressed that eu-LISA's new mandate would contribute to it. Krum Garkov added that interoperability would in fact enhance safeguards by adding additional ones, it would not entail just merging systems and extending access rights. Members raised concern regarding various elements, such as increasing data collection, transparency and oversight by the European Parliament as well as the right to deletion of data.

In its opinion 06/2016 of 21 September 2016, the European Data Protection Supervisor (EDPS) agreed with the need for coherent and effective information systems for borders and security. The EDPS recognised that the smart borders proposals came at a crucial moment when the EU was confronted with serious challenges in this area. However, the EDPS underlined the significant and potentially intrusive nature of the proposed processing of personal data under the EES, which must therefore be considered under both Articles 7 and 8 of the EU Charter of Fundamental Rights. Necessity and proportionality of the EES system are to be assessed both globally, taking into consideration the already existing large-scale IT systems in the EU, and specifically, in the specific case of those third country nationals who are lawful visitors of the EU. The EDPS noted that EES data will be processed for two different purposes, on the one hand for border management and facilitation purposes and on the other hand for law enforcement purposes. The EDPS strongly recommends clearly introducing the difference between these objectives throughout the 2016 EES proposal itself, as these purposes entail a different impact on the rights to privacy and data protection.

On 26 July the Court of Justice of the EU declared that the agreement to transfer Passenger Name Record data between the EU and Canada is incompatible with EU fundamental rights, such as respect for private life and protection of personal data. In response, the Commission undertook to ensure the compliance of data transfers to non-EU countries with the Court's opinion. The Parliament's legal service and the Committee on Civil Liberties, Justice and Home Affairs concluded that the Court's opinion would not affect the wording of the text of the provisional agreement on the Entry/Exit system.

The co-legislators adopted the Regulation for establishing an Entry/Exit System and the Regulation amending the Schengen Borders Code to the use of the Entry/Exit System on 30 November 2017. The system is due to become fully operational by 2020 at the latest.

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TEMPORARY REINTRODUCTION OF BORDER CONTROL AT INTERNAL BORDERS

[ DEPARTURES]



CONTENT

Secondary movements of irregular migrants and the increase of cross-border terrorist threats posing a serious threat to the internal security or public policy have led a number of Schengen States over the last two years to temporarily introduce border control at internal borders. Since September 2015, border controls have been reintroduced and prolonged almost 50 times.

Based on the current Schengen rules, border controls at internal borders can be prolonged for more than six months in case of serious deficiencies in the external border management of a Member State. In situations where the serious threat to public policy or internal security is not related to deficiencies in the management of the external borders, the reintroduction of border control at internal borders is subject to the conditions and time limits set out in Articles 25 to 28 of the Schengen Borders Code. Border controls at internal borders can therefore be carried out for up to six months - in case of foreseeable events such as international sport or political events (Article 25), or for up to two months - in cases requiring immediate action (Article 28).

In May 2017, the Commission recognised that due to the new security challenges in the past years, such as repeated terrorist attacks, the current legal framework, which has proven sufficient in the vast majority of cases, needs to be updated concerning the temporary reintroduction of border controls at internal borders.

On 27 September 2017, the Commission therefore put forward a proposal for a regulation amending the Schengen Borders Code as regards the rules applicable to the temporary reintroduction of border controls at internal borders.

The objective of the proposal is:

- to ensure that the time limits applicable to the temporary border controls at internal borders enable Member States to take, when necessary, measures needed to respond to a serious threats to internal security or public policy;

- to introduce better procedural safeguards in order to ensure that the decision on temporary border controls at internal borders or their prolongation is based on a proper risk assessment and is taken in cooperation with the other Member States concerned.

Therefore it is proposed:

- that the time limit for temporary reintroduction of border controls at internal borders for the foreseeable duration of the serious threat is increased up to one year (instead of six months) and the limit for the length of prolongation periods is increased from up to 30 days to up to 6 months.
- that Member States prepare and submit a risk assessment assessing how long the identified threat is expected to persist and which sections of the internal borders are affected, and demonstrating that the prolongation of internal border controls is a last resort measure;
- to introduce a better follow up to the opinion of the Commission on the necessity or proportionality of border controls and the consultation procedure involving the Commission, Member States and relevant Agencies;
- to introduce a new possibility to extend internal border controls by a maximum period of two years where the serious threat to internal security or public policy persists beyond the one-year deadline, provided that it can be attributed to the same grounds.

In the European Parliament, the proposal on temporary reintroduction of border control at internal borders has been assigned to the Civil Liberties, Justice and Home Affairs Committee (LIBE) under the rapporteurship of Tanja Fajon (S&D, Slovenia). Tanja Fajon adopted her draft report on 12th April 2018. In the report she stresses that the proposal of the Commission was made to legalise existing practices of Member States which are not anymore in line with the current provisions of the Schengen Borders Code. The Rapporteur therefore strongly rejects those attempts and claims the proposed changes should ensure that the use of internal border controls responds to actual needs, are proportionate and limited in time. She also proposes restructuring the relevant articles (25-29) of the Schengen Borders Code to increase their coherence and clarity as well as limiting the total maximum period for border controls for foreseeable events to one year. According to the report, for the first-time prolongation beyond the initial two months Member States should provide a detailed risk assessment, while Member States affected by the possible reintroduction of internal border controls should be more involved. Furthermore, the subsequent prolongation of border controls beyond six months should formally be 'authorised' by the Council. The rapporteur also wants the public to be more aware of the implications of controls at internal borders, and the European Parliament to be more informed and involved as regards democratic scrutiny.

The draft report was presented at the LIBE meeting of 25 April 2018. Until the deadline of 14 May 2018 more than 150 amendments were tabled. LIBE committee is now expected to vote on the report.

On 13 October 2017, Justice and Home Affairs Council held a first exchange of views on the Commission proposal to amend the Schengen Borders Code. On 19 June 2018, COREPER endorsed, on behalf of the Council, a mandate for negotiations on a proposal amending the Schengen border code as regards temporary reintroduction of controls at internal borders. The mandate foresees that Member States reintroduce internal border controls in case of serious threats to public policy or internal security for a total period of no longer than one year. It also includes a series of safeguards which should be met in order to ensure the proportionality and necessity of these measures, including a risk assessment and consultation mechanisms. When border controls at internal borders are

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EU Regulation No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code) sets out the procedures for the issuing of short-term (Schengen) visas. It establishes the procedures and conditions for issuing visas for short stays in and transit through the territories of EU countries. It also lists the non-EU countries whose nationals are required to hold an airport transit visa when passing through the international transit areas of EU airports and establishes the procedures and conditions for issuing such visas.

In April 2014, the Commission already submitted a package with important changes to the EU visa rules. The package included a Proposal for a regulation on the Union Code on Visas and a Proposal for a regulation establishing a new type of visa ('touring visa'). On 16 March 2016, the LIBE Committee of the EP adopted its draft report. At its meeting on 7 April 2016, the Council's Visa Working Party agreed on a compromise text on the basis of which the negotiations with the European Parliament could be started. Currently,

interinstitutional negotiations between the Council and the European Parliament are on hold due to the disagreements of both institutions regarding certain issues.

In its work programme for 2018 the Commission announced that it will make the necessary proposals in 2018 to revise the Visa Code and in that context will withdraw its proposals for a Visa Code and the Touring Visa. On 13 March 2018 the Commission thus submitted a proposal amending Regulation (EC) No 810/2009 establishing a Community Code on Visas (Visa Code). The aim of the proposal is to update the visa procedures to better respond to the changed migratory and security situation. This should be done by linking the common visa policy with readmission cooperation of third countries and broader EU external policy. The proposal also intends to facilitate processing of visas for legitimate travellers who contribute to the EU's economy and its cultural and social development. The main points of the revised proposal include:

- joining up visa and return policies by increasing the role of visa policy in the EU's cooperation with third-countries, specifically on migration management;
- increasing the visa fee;
- introducing a harmonised approach (mandatory rules) to issuing multiple-entry visas with long validity;
- simplified visa procedures and facilitating short-term tourism, including a possibility for Member States to issue single-entry visas at the external borders in exceptional situations.

In the European Parliament, the proposal establishing a Community Code on Visas (Visa Code) has been assigned to the Civil Liberties, Justice and Home Affairs Committee (LIBE) under the rapporteurship of Juan Fernando López Aguilar (S&D, Spain). The work in the committee is ongoing.

The Bulgarian Presidency started the examination of the text in the Council preparatory bodies soon after the proposal was launched. Considerable progress has been made on many technical aspects of the proposal, such as the level of visa fees, some aspects of the representation arrangements, the procedures and conditions for issuing visas, the determination of the Member States competent for examining and deciding on an application, the issuing of multiple-entry visas and the cooperation with external service providers. One of the core elements of the Commission proposal, i.e. the link between visa policy and readmission, needed further political guidance. At the JHA Council of 5 June 2018 the ministers discussed the proposal to reform the visa code, focusing in particular on the link between visa policy and readmission. Most of the delegations supported the codification of the link between visa policy and readmission and expressed a preference for the negative incentives.

On 19 June 2018, COREPER endorsed, on behalf of the Council, a mandate for negotiations on a proposal amending the visa code. The mandate foresees: faster and more clear procedures for legitimate travellers; visa fee increase to 80 euros and a mechanism to assess every three years the need to revise the amount of the visa fee; a new mechanism for using visa policy as leverage to readmission, when a third country does not cooperate with member states on the readmission of irregular migrants; in case of non-cooperation, the Council, on a proposal by the Commission, shall adopt an implementing decision applying specific restrictive visa measures related to visa processing and visa fee.

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Council Regulation (EC) No 377/2004 of 19 February 2004 establishes an immigration liaison officers (ILO) network. These officers are representatives of the Member States who are posted in a non-Member State in order to facilitate the measures taken by the EU to combat illegal immigration. The aim of the regulation is to pool the actions taken by the ILO and enable officers in a particular region or non-Member State to liaise with one another.

Each Member State posts an immigration liaison officer (ILO) to its consular authorities in a non-Member State. The ILO maintains direct contacts with the authorities in the host country in order to improve exchanges of information concerning:

- flows of illegal immigrants originating from or transiting through the host country;
- the routes followed by those flows of immigrants;
- their modus operandi;
- the existence of criminal organisations involved in the smuggling of immigrants;
- the incidents that may be the cause for new developments with respect to these flows of immigrants;
- the methods used for falsifying identity documents and travel documents;

- how best to assist the authorities in host countries in preventing these immigration flows;
- how best to facilitate the return of illegal immigrants to their countries of origin.

The Commission in the EU Action Plan against Migrant Smuggling of May 2015 announced the evaluation and possible revision of the Council regulation in order to assess its relevance, coherence, effectiveness, efficiency and EU added-value. The aim is to enhance the ability of the Immigration Liaison Officers (ILOs) to obtain in third countries, and share within the EU, relevant information on modus operandi, routes, smuggling networks and other related crime in the area of irregular migration. Additionally, the ILOs are recognised as playing an important role in reaching out to third countries and facilitating setting cooperation frameworks on migration with these countries. The Commission also stated that the evaluation's results will, if necessary, also form the basis of a possible impact assessment, thus supporting the Commission's decision on the revision of the existing legislation. In its work programme for 2018 the Commission announced that it will make the necessary proposals in 2018.

On 16 May 2018, the Commission thus published a proposal to revise the immigration liaison officers regulation. The objective of the proposal is to enhance coordination and to optimise utilisation of immigration liaison officers, including the new European liaison officers deployed to third countries to enable them to respond more effectively to EU priorities in the field of migration. The proposal aims at reinforcing cooperation between Member States by establishing a formal governance mechanism ("Steering Board") composed of representatives of the Commission, Member States ILOs' back offices and EU Agencies.

In the European Parliament, the proposal establishing a Community Code on Visas (Visa Code) has been assigned to the Civil Liberties, Justice and Home Affairs Committee (LIBE) under the rapporteurship of Cécile Kashetu Kyenge (S&D, Italy). The work in the committee is in a preparatory phase.

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NEW REGULATION ON THE VISA INFORMATION SYSTEM (VIS)

[ DEPARTURES]

CONTENT

The Visa Information System (VIS), based on a Regulation 2008/767 of the European Parliament and of the Council, is an EU database which connects border guards at the EU's external borders with Member States' consulates across the world. It provides visa issuing authorities with key information on applicants for short-stay Schengen visas while allowing border guards to detect travellers that may pose security risks.

In its work programme for 2018 the European Commission announced that it will make the necessary proposals in 2018 to upgrade the Visa Information System (VIS). Thus, on 16 May 2018, the Commission adopted a proposal to upgrade the VIS in order to better respond to evolving security and migratory challenges and improve the EU's external border management. This should be done by allowing more thorough background checks on visa applicants, closing security information gaps through better information exchange between Member States and ensuring full interoperability with other EU-wide databases. The recordings in the VIS system will be automatically checked against all other EU information systems for security and migration; the scope of VIS will be extended to long-stay visas and residence permits; copies of travel documents will be included in the system and law enforcement authorities will have more structured access to the VIS. The eu-LISA will be responsible for the development and management of the new system.

In the European Parliament, the proposal upgrading the VIS system has been assigned to the Civil Liberties, Justice and Home Affairs Committee (LIBE) under the rapporteurship of Carlos Coelho (EPP, Portugal). The proposal is in a preparatory phase in the committee.

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AMENDMENTS TO THE 2013 DUBLIN REGULATION

[ ON HOLD]

CONTENT

The 2013 recast Dublin Regulation (Dublin III), which entered into force on 1 January 2014, establishes criteria for determining the EU Member State responsible for the examination of an application for international protection.

During the negotiations on the 'Dublin III' Regulation, the provision relating to the Member State responsible for examining the application for international protection of unaccompanied minors who have no relatives on the territory of the Member States (Article 8(4)) was a core element of disagreement between the co-legislators - not least due to its ambiguity in defining the responsibility for the examination of the application.

Parliament was of the view that it should be the Member State where the minor was present at the given moment in time that should be made responsible; the idea is to avoid, in the child's best interests, unnecessary transfers of unaccompanied minors. This understanding was in line with the Commission recast proposal.

The Council's position, on the contrary, was that the unaccompanied minor should be sent back to the Member State where he/she made the first application for asylum. The co-legislators then decided not to change the provision at that stage and to seek the guidance of the European Court of Justice on the matter; the outcome of the ruling would provide the basis for the final version of Article 8(4) of the Dublin III Regulation.

Thus, the amendments submitted by the Commission on 26 June 2014 aimed at proposing a revised wording in relation to the regime applicable to unaccompanied minors, which would be in accordance with the new case law of the EU Court of Justice of 6 June 2013 (C-648/11 - MA and Others).

The Council adopted a general approach on 5 February 2015. However, the Parliament's negotiating team is of the opinion that the Council's general approach sidelines the orientation given by the Court of Justice and tends to rather reflect the former position of Council during the negotiation of the asylum package.

The EP Committee on Civil Liberties, Justice and Home Affairs (LIBE) adopted its report (rapporteur: Cecilia Wikström, ALDE, Sweden) and a negotiating mandate on 6 May 2015, tabling it to the plenary on 18 May 2015. The Committee introduced amendments according to which it would be the Member State where the minor is present that should be responsible for processing the asylum application, so as to ensure a swift decision and avoid unnecessary transfers. The only possible exception would be in cases where it would be in the best interest of the child to go to another country.

The first trilogue meeting took place under the Latvian Presidency (January-June 2015), but no agreement could be reached.

On 4 May 2016, the Commission announced its intention to withdraw the proposal with a view to including its content in the proposal

for recast of the Dublin III Regulation (see Section 2 of COM(2016) 270 final).

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PERMANENT EU RELOCATION MECHANISM

[ON HOLD]

> EUROPEAN AGENDA ON MIGRATION



> STRONG ASYLUM POLICY

CONTENT

The EU's Common European Asylum System's (CEAS) aims at stronger cooperation between Member States, and balancing out the burden amongst them. However in practice, due to CEAS' uneven implementation in the Member States, asylum-seekers apply for asylum in a few Member States where it is most likely to be granted, and hence the burden varies dramatically between Member States.

After outlining immediate measures to respond to the refugee and migration crisis in May 2015, the Commission also stressed the medium and long-term need for permanent structural solutions for better migration management in all its aspects.

Hence in September 2015, the European Commission presented a proposal for a Regulation on a permanent crisis relocation mechanism under the Dublin system amending Regulation (EU) No 604/2013 of 26 June 2013 on criteria and mechanisms for determining the Member State responsible for examining international protection applications by third country nationals or a stateless person ('Dublin system'). The legislative proposal focuses on the following:

- a robust EU crisis relocation mechanism dealing with crises in the asylum area, triggered rapidly for any Member States' asylum systems experiencing significant strain, also considering Member States' size;

- clear indicators to be used by the Commission to assess crisis situations and necessary temporary measures;
- fair sharing of Member States' responsibilities in crisis situations for large numbers of applicants needing international protection and full protection of international protection applicants' rights. The proposal defines those applicants as belonging to nationalities for which, based on the latest available updated quarterly EU-wide average Eurostat data, the recognition rate is 75% or higher. Should the Commission establish that the conditions for relocation are present in respect of a particular Member State, it would adopt a delegated act for triggering the relocation mechanism's application.
- Member States' right to refuse to relocate an applicant apply only in relation to national security or public order concerns or exclusion provisions set out in Directive 2011/95/EU. In this context the draft regulation defines a mandatory distribution key for determining the responsibility for examining applications based on population, total GDP, average number of asylum applications over the five preceding years and unemployment rate with different weighting.
- Member States' on arrival retain responsibility for the procedure for granting international protection, but receive increased operational support from other Member States. Member States will receive a 6 000 EUR lump sum under the Asylum, Migration and Integration Fund (AMIF) for each relocated person on their territory.

The Commission proposal was assigned to the EP's LIBE Committee on 16 September 2015 (rapporteur: Timothy Kirkhope, ECR, UK). Presenting the Commission proposal and state of play in Council on 1 December 2015, the rapporteur stressed the need for a robust framework, a distribution mechanism, and procedures for appeals, noting that the solutions should fit the current as well as any future crisis (note 15309/15). On 3 December 2015 the rapporteur presented and discussed the National parliament reasoned opinions on the issue before the Legal Affairs Committee Committees (JURI). The LIBE Committee also organised a hearing on *The reform of the Dublin System and Crisis Relocation* with the participation of various stakeholders in October 2016. Since then, there have been no developments on the file in Parliament.

On 14 September 2015, the Council adopted a decision establishing a temporary relocation mechanism for international protection applicants, with member states participating in the mechanism receiving a 6 000 EUR lump sum for each relocated person. At the same time, on 17 September 2015, the EP voted to back the Council decision.

On 5 October 2015 The Council decided to carry out a thorough assessment of each country of origin (concerning the list of safe countries of origin) and an assessment of the crisis relocation mechanism's results before starting the discussion on the permanent crisis relocation mechanism.

On 1 December 2015 in Council discussions, some delegations raised general scrutiny reservations, reiterating the need for an evaluation of the functioning of the temporary emergency relocation schemes and addressing the functioning of the hotspots and the prevention of secondary movements. At the same time, some other Member States supported the Presidency underlining the

importance of pursuing the discussions with a view to seeking a fairer burden sharing between Member States. The Council continued discussions on 7 December and on 21 January 2016 (related Council documents are not publicly accessible).

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EUROPEAN LIST OF SAFE COUNTRIES OF ORIGIN

[ ON HOLD]

>  **EUROPEAN AGENDA ON MIGRATION**



>  **STRONG ASYLUM POLICY**

CONTENT

The European Agenda for Migration presented by the Commission on 13 May 2015 took note that in addition to the immediate measures aimed at addressing the migratory pressure in the Mediterranean, further initiatives needed to be taken to better manage migration in all its aspects.

In his speech of 9 September 2015 on the 2015 State of the Union, Commission President Juncker announced a proposal for a regulation establishing an EU common list of safe countries of origin. The aim of the regulation is to support the swift processing of asylum applications from persons originating from countries designated as safe. The regulation would strengthen the safe country of origin provisions of Directive 2013/32/EU on common procedures for granting and withdrawing international protection. This will enable Member States to apply specific procedural rules, in particular accelerated asylum and border procedures, where the applicant is a national of a country that has been designated as a safe country of origin by national law.

The European Parliament in its resolution of 12 April 2016 on the situation in the Mediterranean and the need for a holistic EU approach to migration:

- observed that if such a Union list would become obligatory for Member States it could, in principle, be an important tool for facilitating the asylum process, including return;
- regretted the current situation in which Member States apply different lists, containing different safe countries, hampering uniform application and incentivising secondary movements;
- underlined that any list of safe countries of origin should not detract from the principle that every person must be allowed an appropriate individual examination of his or her application for international protection.

On 7 July 2016, the Committee on Civil Liberties, Justice and Home Affairs (LIBE) voted on the committee draft report by the rapporteur Sylvie Guillaume (S&D, France). The Members of the LIBE Committee agreed that the future EU common list of safe countries of origin, which should help Member States to process certain asylum applications faster and more consistently, should replace today's national lists after a three-year transition period. When voting on the report, the LIBE Committee also adopted a mandate enabling the opening of talks with the Council.

In the Council, the Luxembourg Presidency suggested revisions to the Commission's proposal. The Justice and Home Affairs Council of 8-9 October 2015 confirmed the need for an effective return policy. Increasing coherence between migration and development policy is being emphasised through the New Partnership Framework with Third Countries and the series of compacts being concluded to ensure that development assistance helps countries of origin and transit to manage migration more effectively, and also incentivises them to effectively cooperate on readmission of irregular migrants. Work with the Commission proposal continued in the Asylum Working Party, with Coreper agreeing a mandate on 23 March 2016 to open negotiations with Parliament.

Negotiations continued in trilogues, where they were divided into four topics: methodology; means of suspension of country from the list; harmonisation of lists into a single list; and fundamental rights safeguards. Agreement was reached on the first two, but the latter two have been subject to disagreement.

While the co-legislators agreed on the common list approach, there was no decision as to which countries should be on the list. The Parliament and Council agreed to postpone the evaluation of the list until new country information is available, as the Commission's methodology for drawing up the list came under criticism, in particular due to the inclusion of Turkey. On 16 November 2016, the delegations in the Council received a letter from José Carreira, Executive Director of EASO, containing new country of origin reports on the seven countries listed in the proposal (Albania, Bosnia and Herzegovina, Former Yugoslav Republic of Macedonia, Kosovo, Montenegro, Serbia, Turkey).

In 2016, the Commission also proposed to replace the current Asylum Procedures Directive with a regulation (see Reform of the Asylum Procedures Directive). In addition to choosing a directly applicable instrument that does not require transposition in national law, one of the most significant changes of the proposal (COM(2016) 467) concerns precisely the use of the safe country concepts, which are to become mandatory in all Member States. The Commission explained that the aim was to achieve a fully harmonised designation of safe countries of origin, proposed by the Commission on the basis of assessments conducted by the proposed

European Union Agency for Asylum. In line with this, article 50(1) of the proposal includes a 'sunset' clause that would allow Member States to retain national designations of safe countries of origin for up to five years after the entry into force of the Asylum Procedures Regulation.

In the explanatory memorandum of the proposal, the Commission stated that 'the EU common list of safe countries of origin should be an integral part of this draft regulation' and, for this reason, the new text incorporates the proposal for a regulation establishing an EU common list of safe countries of origin, including the same list of countries. The Commission envisages the next steps as follows.

- Once the co-legislators have agreed on the proposal for establishing an EU common list of safe countries of origin, it should be adopted.
- The text of the new regulation would then be incorporated in the Asylum Procedures Regulation as it is adopted.
- After that, the regulation establishing an EU common list of safe countries of origin should be repealed.

On 12 April 2017, the Council announced the suspension of negotiations on this file (content could be covered under the Common Procedure Regulation).

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EXPLANATION OF COST OF NON EUROPE

As regards the single market, indefinite suspension of the whole Schengen area would cost some €100 billion to €230 billion over ten years. As for the costs linked to the reintroduction of border controls these could range between €0.05 billion and €20 billion in one-off costs and €2 billion and €4 billion in annual operating costs.

CONTENT

Schengen is one of the major achievements of European integration. The European Union's ability to maintain an area free from internal borders is contingent on having secure external borders.

The Schengen system contains a great deal of flexibility to allow Member States to respond to evolving circumstances. Yet, the system has been shaken to its core by the scale of the challenge of facing up to the largest refugee crisis since the Second World War. The continued increase in the number of migrants and refugees arriving in the EU has revealed serious deficiencies at parts of the Union's external borders, which resulted in Member States taking exceptional last resort measures, such as temporarily reintroducing internal borders controls, in accordance with the provisions of the Schengen Code.

The re-introduction of temporary internal border controls has put into question the proper functioning of the Schengen area of free movement and its benefits to European citizens and the European economy.

In its Conclusions of 19/20 October 2017, the European Council again reiterated its commitment to the Schengen system and the intention to get "Back to Schengen" as soon as possible while taking proportionate security interests of Member States fully into account.

In its resolution of 12 April 2016 on the situation in the Mediterranean and the need for a holistic EU approach to migration, the European Parliament stressed that:

- the Schengen Area is one of the major achievements of European integration and expressed concerns that some Member States have felt the need to close their internal borders or introduce temporary border controls, thus calling into question the proper functioning of the Schengen Area;
- the temporary reintroduction of border controls by several Member States is putting at risk the normal Schengen system of open EU internal borders and free movement of people, worsening conditions for refugees at the borders and creating problems for the functioning of the EU transport system.

On 4 March 2016, the Commission submitted a communication entitled 'Back to Schengen - A Roadmap' which includes concrete steps to bring order back into the management of the EU's external and internal borders. The objective was to subsequently lift all

internal border controls as quickly as possible with a clear target date of December 2016.

On 2 May 2017, the Commission recommended that Austria, Germany, Denmark, Sweden and Norway phase out the temporary controls currently in place at some of their internal Schengen borders over the next six months.

On 11 May 2017, the Council, based on the Commission's recommendation, adopted a fourth implementing decision on prolonging temporary internal border controls in exceptional circumstances. Before prolonging such controls, those member states concerned should exchange views with the relevant member states to ensure that internal border controls are carried out only where it is considered necessary and proportionate. They should also ensure that internal border controls are only carried out as a last resort and when other alternative measures cannot achieve the same effect. The use of police powers across the territory should be preferred if it produces the same results. The measure expired on 11 November 2017.

The five States (Austria, Germany, Denmark, Sweden and Norway) subsequently made a notification under Article 25, based on the "security situation in Europe and threats resulting from the continuous significant secondary movements". This allowed them to reintroduce border controls until 12 May 2018. According to the Commission, 5 countries notified it on their intent to prolong those border controls for another 6 months, until November 2018. France, under the same Article 25, prolonged its internal border controls until 30 October 2018 on the basis of persistent terrorist threat.

On 27 September 2017, the Commission published a Communication on the measures already taken to respond to security challenges at the external borders and within the Schengen area. In addition, it proposed an update of the Schengen Borders Code to adapt the rules for the reintroduction of temporary internal border controls to the current needs. The aim is to prolong time limits for internal border controls and thus respond to evolving and persistent serious threats to public policy or internal security. The proposal also includes stronger procedural safeguards to ensure that border controls at internal borders remain an exception, a measure of last resort, and are used only if necessary and proportionate, limiting the impact on free movement. On the same day the Commission also published a recommendation to Member States on how to better apply, if needed, the current rules on temporary border controls.

On 13 October 2017, Justice and Home Affairs Council held a first exchange of views on the Commission proposal to amend the Schengen Borders Code. Discussions on this proposal will now continue at technical level. The Council also confirmed the benefits of Schengen and the need to protect those benefits, while at the same respond to the evolving threats faced by some Member States.

The Commission in its 2018 work programme expresses its intention to get 'back to Schengen' as soon as possible and to take proportionate security requests of Member States fully into account. Thus it calls on the European Parliament and the Council to swiftly adopt the proposal on the revision of the Schengen Border Code (See the file 'TEMPORARY REINTRODUCTION OF BORDER CONTROL AT INTERNAL BORDERS').

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HUMANITARIAN VISAS – AMENDMENT OF THE EU VISA CODE

 ON HOLD]



CONTENT

The European Commission's April 2014 proposal for a recast of the Visa Code does not contain any changes to the current framework for humanitarian visas.

The Council discussed the proposal between April 2014 and April 2016. On 12 April 2016, the Council Presidency invited the Permanent Representatives Committee (Coreper) to mandate the Presidency to start informal trilogues with the EP.

The European Parliament's resolution of 12 April 2016 on the situation in the Mediterranean and the need for a holistic EU approach to migration stressed that humanitarian visas provide persons in need of international protection with a means of accessing a third country in order to apply for asylum. Therefore, it called on Member States to use any existing possibilities to provide humanitarian visas, particularly for vulnerable persons, notably at Union embassies and consular offices in countries of origin or transit countries. The EP considered that persons seeking international protection should be able to apply for a European humanitarian visa directly at any Member State consulate or embassy, and that once granted, following an assessment, such a humanitarian visa would allow its holder to enter the territory of the Member State which had issued the visa, for the sole purpose of lodging an application for international protection in that country. Hence, Parliament believes that it is necessary to amend the Union Visa Code by including more specific provisions on humanitarian visas. As a follow-up to this resolution, the LIBE Committee's report of 25 April 2016 (rapporteur: Juan Fernando López Aguilar, S&D, Spain) amends the Commission proposal for a recast Visa Code by providing for that persons seeking international protection may apply for a European humanitarian visa directly at any Member State consulate or embassy. Once granted following an assessment, such a humanitarian visa shall allow its holder to enter the territory of the Member State issuing the visa for the sole purpose of lodging in that Member State an application for international protection, as defined in the Qualification Directive.

Between June and September 2016 the Council considered the LIBE Committee's amendments relating to humanitarian visas. It then asked the EP for further clarification, arguing, along with the Commission, that the Visa Code's aim was not to deal with migration, and the issue should be examined within the EU Resettlement Framework. The Council discussed the issue further in November 2016 and October 2017.

On 7 March 2017, the Court of Justice of the European Union (CJEU) adopted its judgment in Case C-638/16 PPU X and X v État belge, according to which Member States are not required, under EU law, to grant a humanitarian visa to persons who wish to enter their territory with a view to applying for asylum, but they remain free to do so on the basis of their national law.

In September 2017, following the deadlock in trilogue negotiations, due to the Commission and Council's opposition to including provisions for a humanitarian visa, Parliament withdrew its amendments.

Hence, in November 2017, the LIBE Committee decided to draw up an EP own-initiative report on Humanitarian Visas (rapporteur: Juan Fernando López Aguilar, S&D, Spain) requesting the Commission to submit a legislative proposal for a separate instrument. On 5 April 2018, the LIBE Committee produced a working document on the subject. The document was discussed at the LIBE Committee's meeting on 9 April 2018. The first/single reading at the plenary is scheduled for 28 November 2018.

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DIRECTIVE ON STUDENTS AND RESEARCHERS

 **ARRIVED**

CONTENT

Considering the demographic challenges that the EU is facing, the European Council in its "Strategic Guidelines for the Area of Freedom, Security and Justice" defined in June 2014 listed a policy on legal migration among the important priorities for the upcoming years.

The proposal for the Directive was put forward in March 2013 as a recast of two Directives, one on students and one on researchers, into one single text. It is part of the effort to address shortages in specific skills, as well as to make the EU a more attractive destination for talents. It provides harmonised conditions of entry and residence in the EU for third-country researchers, students, trainees and volunteers taking part in the European voluntary service scheme. It also improves the situation of researchers and students in aspects including mobility, entry of family members or access to work. The scope of the directive extends to two new categories of third-country nationals: remunerated trainees and au pairs.

The European Parliament adopted a first reading position on 25 February 2014, which also served as a mandate for the negotiations with the Council. The Parliament's position included several amendments to improve the situation of students and researchers, in

particular:

- Extending to 18 months the period during which they can look for work after the end of their study or research period (the Commission had proposed 12 months); this right should also be granted to researchers' and students' family members.
- Fees for handling applications should not be as excessive or disproportionate as to hinder the aims of the legislation, adding that if fees are paid by the person concerned, he or she should be reimbursed by the host entity or the host family.
- Extending the right to volunteers to move to other EU countries and carry out their activities there.
- 30-day deadline (compared to the 60 days proposed by the Commission) for member states to accept or refuse applications. They also added a 30-day deadline for deciding on an appeal against a refusal.

A political agreement was reached between Parliament and Council on 17 November 2015. The agreement had to be approved by the LIBE Committee and endorsed by the Parliament as a whole, as well as by the Council of Ministers.

The European Parliament's Civil Liberties Committee endorsed the draft directive on 30 November 2015. It also approved a joint statement by the European Parliament and the Commission on the ground for rejection as specified in point (f) of Article 20(2). The aim of the statement is to clarify this provision of the Directive as allowing Member States to reject an application only on a case-by-case basis, taking into account the specific circumstances of the third-country national and the principle of proportionality, as well as on the basis of evidence or serious and objective reasons.

The European Parliament adopted its legislative resolution on 11 May 2016, including the joint statement by the European Parliament and the Commission.

The Council confirmed the agreement on 4 December 2015.

Directive (EU) 2016/801 of 11 May 2016 on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing was published in the Official Journal on 21 May 2016.

The directive entered into force the day after its publication in the Official Journal of the EU. Member States have two years to translate the directive into national law.

The main elements of the agreement are the following:

- Students and researchers will have the right to stay at least nine months after finishing their studies or research in order to look for a job or to set up a business, which should also ensure that Europe benefits from their skills (Commission proposal: 12 months, the Parliament had called for 18 months, whilst the Council wants to limit the period to 6 months). Today, it is individual EU Member States who decide whether students and researchers from third countries may stay on after their studies or research have ended.

- Movement between Member States: It will be easier for students and researchers to move within the EU during their stay. Under the new rules, they will have to notify only the member state to which they are moving, for example to do a one-semester exchange, instead of having to submit a new visa application and wait for it to be processed, as is the case today. Researchers will also be able to move for longer periods than those currently allowed.

- Rules for researchers: researchers will have the right to bring their family members with them, also when they move within the EU, and these family members will also have the right to work during their stay in Europe.

- Students: they will have the right to work at least 15 hours a week.

In addition to the rules on students and researchers, the new directive also has provisions for interns and volunteers under the European Volunteer Scheme, who will benefit from uniform conditions to enter Europe and increased protection once there, as well as optional provisions for other volunteers, school pupils and au pairs. This is the first time that third-country au pairs have been included in an EU law.

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1ST EMERGENCY RELOCATION SCHEME

[ ARRIVED]

>  **EUROPEAN AGENDA ON MIGRATION**

>  **IMMEDIATE ACTION**

CONTENT

In its European Agenda on Migration presented on 13 May 2015, the Commission proposed a series of immediate actions to address 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.

The European Commission proposed to use the emergency response mechanism under Article 78(3) of the TFEU for the first time in order to set up a temporary relocation scheme applying to a total of 40 000 persons (from states with an average asylum recognition

rate of above 75%) in need of international protection, arrived in either Italy (24 000) or Greece (16 000) after 15 April 2015 (no retroactivity).

The relocation from Italy and Greece to other EU Member States would take place over the period of 2 years in accordance with a distribution key based on four criteria: i) the national GDP (40%), ii) size of the population (40%), iii) unemployment level (10%) and iv) the number of asylum-seekers already hosted (10%). Thus, the proposed decision entails a limited and temporary derogation to the provisions of the Dublin Regulation as regards the criteria for determining the State responsible for examining an asylum application.

The EU budget will provide an additional €240 million to support the 24 months scheme. Member States will receive a €6 000 lump sum under the Asylum, Migration and Integration Fund (AMIF) for each relocated person on their territory.

The European Parliament adopted its opinion on 9 September 2015. The legislative resolution on the emergency relocation of the initial 40 000 asylum seekers was approved by 498 votes to 158, with 37 abstentions. The Parliament stressed that more contributions to solidarity will be needed and suggested the establishment of a permanent scheme in the future, providing for a mandatory and automatically triggered relocation system in case of emergency. The Parliament also proposed that asylum seekers should be given the possibility, before they are relocated from Italy and Greece, to rank member states by order of preference, according to criteria such as family, social and cultural ties, such as language skills, previous stays, studies and work experience.

On 18 May 2017, the European Parliament issued a resolution, urging Member States to fulfil their obligations on relocation. The Parliament acknowledged that some progress had been made, but expressed its disappointment regarding the unfulfilled commitments of Member States to solidarity and responsibility sharing. It called on the Member States to give priority to the relocation of unaccompanied minors and other vulnerable applicants.

The proposed Council Decision was discussed at the June 2015 European Council. It was agreed that a decision on the temporary and exceptional relocation distribution - which will remain voluntary rather than mandatory as proposed by the Commission - would be taken by consensus in the Justice and Home Affairs Council by the end of July. The adoption of the decision required a qualified majority in Council after consultation of the Parliament. Denmark has an opt-out under the Treaty, and did not participate, neither did the UK. Ireland has an opt-in possibility.

The Council reached a general approach on a draft decision on 20 July 2015. On 14 September 2015, the extraordinary Home Affairs Council adopted the decision establishing a temporary and exceptional relocation mechanism over two years from the frontline Member States Italy and Greece to other Member States, which entered into force on 15 September 2015. It shall apply until 17 September 2017 to:

- persons arriving on the territory of Italy or Greece as from 16 September 2015 until 17 September 2017, as well as
- applicants having arrived on the territory of those Member States from 15 August 2015 onwards.

At its meeting of 28 June 2016, the European Council reiterated its call for further action to accelerate the implementation of the relocation and resettlement schemes. The Bratislava Roadmap of 16 September 2016 reaffirmed the need to apply the principles of responsibility and solidarity in future migration policy.

Halfway through the implementation of relocation, 5,651 people had been relocated. The Commission emphasized in its report of 27 September 2016 that with the continuous arrival of migrants in Italy and the still challenging humanitarian situation in Greece, relocation remained crucial to alleviate the pressure in these countries.

In its twelfth progress report published on 13 June 2017, the Commission regretted that despite repeated calls, the Czech Republic, Hungary and Poland had yet to take the necessary action. The Commission decided to launch infringement procedures on 14 June 2017 against these three Member States. On 7 December 2017, the European Commission referred the Czech Republic, Hungary and Poland to the Court of Justice of the EU for non-compliance with their legal obligations on relocation.

The Commission confirmed that Member States' legal obligations do not stop at the end of the emergency scheme in September 2017, but will extend to a reasonable timeframe thereafter.

In the progress report on the European Agenda on Migration published on 15 November 2017, the Commission noted that the relocation of eligible applicants by Member States continued. The Commission insisted that it is now important swiftly to relocate all the remaining eligible persons having arrived in Greece and Italy until September 26 (around 37 000 people). By December 2017, a total of 32 366 asylum seekers (10 842 from Italy and 21 524 from Greece) have been effectively relocated.

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2ND EMERGENCY RELOCATION SCHEME

[➡ ARRIVED]

- >  EUROPEAN AGENDA ON MIGRATION
- >  IMMEDIATE ACTION

CONTENT

In its European Agenda on Migration presented on 13 May 2015, the Commission proposed a series of immediate actions to address 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.

The European Commission proposed to use the emergency response mechanism under Article 78(3) of the TFEU for the first time in order to set up a temporary relocation scheme to alleviate the pressure on frontline Member States.

On 14 September 2015, the extraordinary Home Affairs Council adopted the Council Decision (EU) 2015/1523 establishing provisional measures in the area of international protection for the benefit of Italy and of Greece, applying to a total of 40 000 persons from states with an average asylum recognition rate of above 75% in need of international protection, arrived in either Italy (24 000) or Greece (16 000) after 15 April 2015 (no retroactivity).

But since that agreement by the Council, the migratory situation in the Central and Eastern Mediterranean had intensified. The flows of migrants and refugees more than doubled over the summer months of 2015 giving impetus to trigger a new emergency mechanism to alleviate pressure faced frontline countries.

Thus, in his speech on the 2015 State of the Union from 9 September 2015, Commission President Juncker announced a proposal for a second emergency mechanism aimed to relocate a further 120 000 people seeking international protection from Italy, Greece and Hungary. In the course of the adoption of the legislative act, a change was made to the initial proposal: Hungary did not want to be included as a beneficiary of the relocation scheme.

The European Parliament voted in favour of the emergency mechanism on 17 September 2015, less than three weeks after adoption of the first proposal on 9 September 2015. Parliament backed the Commission's second proposal (without amending it) by 370 votes to 134, with 52 abstentions. The Parliament's backing in record time of the European Commission's proposal was intended to send a clear signal to the meeting of EU home affairs ministers who had until then been unable to agree on how to relocate the additional 120 000 asylum-seekers.

In its resolution from 12 April 2016 on the situation in the Mediterranean and the need for a holistic EU approach to migration, the European Parliament

- recalled that it has been calling for a binding mechanism for the distribution of asylum seekers since 2009;
- saw the establishment of urgent relocation measures as a move in the right direction;
- suggested considering two more criteria in addition to those contained in the relocation decisions, namely, the size of the territory of the Member State and the population density of the Member State;
- emphasized that the preferences of the applicant should, as much as practically possible, be taken into account when carrying out relocation.

The Council adopted the Decision by qualified majority on 22 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and Greece. It shall apply until 26 September 2017.

Slovakia and Hungary which, like the Czech Republic and Romania, voted against the adoption of the contested second relocation decision in the Council, turned to the Court of Justice of European Union to annul the decision on 2 and 3 December 2015 respectively. The Court dismissed the actions brought by Slovakia and Hungary against the provisional mechanism for the mandatory relocation of asylum seekers on 6 September 2017 in its Judgment in Joined Cases C-643/15 and C-647/15 Slovakia and Hungary v Council.

At its meeting of 28 June 2016, the European Council reiterated its call for further action to accelerate the implementation of the relocation and resettlement schemes. The Bratislava Roadmap of 16 September 2016 reaffirmed the need to apply the principles of responsibility and solidarity in future migration policy.

Halfway through the implementation of relocation, 5651 people had been relocated. The Commission emphasized in its report of 27 September 2016 that with the continuous arrival of migrants in Italy and the still challenging humanitarian situation in Greece, relocation remained crucial to alleviate the pressure in these countries. It suggested amending the second relocation decision to allow a further 54 000 people to be resettled under a voluntary arrangement, subtracting this number from the relocation goal of 160 000, unlikely to be met otherwise by the end of the scheme on 17 September 2017. The Council adopted the decision on 29 September 2016.

In its twelfth progress report published on 13 June 2017, the Commission regretted that despite repeated calls, the Czech Republic, Hungary and Poland had yet to take the necessary action. The Commission decided to launch infringement procedures on 14 June 2017 against these three Member States. On 7 December 2017, the European Commission referred the Czech Republic, Hungary and Poland to the Court of Justice of the EU for non-compliance with their legal obligations on relocation.

The Commission confirmed that Member States' legal obligations do not stop at the end of the emergency scheme in September 2017, but will extend to a reasonable timeframe thereafter.

In the progress report on the European Agenda on Migration published on 15 November 2017, the Commission noted that the relocation of eligible applicants by Member States continued. The Commission insisted that it is now important swiftly to relocate all the remaining eligible persons having arrived in Greece and Italy until September 26 (around 37 000 people). By December 2017, a total of 32 366 asylum seekers (10 842 from Italy and 21 524 from Greece) have been effectively relocated.

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EUROPEAN UNION NAVAL FORCE – MEDITERRANEAN OPERATION SOPHIA

[➔ ARRIVED]

CONTENT

Following the extraordinary European Council of 23 April 2015, the European Foreign and Defence Ministers agreed to create a naval force, EUNAVFOR Med, and to launch a Common Security and Defence Policy operation in the Mediterranean on 18 May 2015. The overarching objective is to help save lives by disrupting criminal networks of smugglers and traffickers. The Italian-commanded force would be based in Rome and operate in the southern and central Mediterranean, in co-operation with the Libyan authorities. The operation is to undertake systematic efforts to identify, capture and dispose of vessels, as well as enabling confiscation of assets used or suspected of being used by migrant smugglers or traffickers.

On 7 October 2015, the operation moved on to Phase II - now renamed Sophia, in international waters. It entailed boarding, search, seizure and diversion, on the high seas, of vessels suspected of being used for human smuggling or trafficking human beings. A resolution of the UN Security Council under Chapter VII of the UN Charter is required to enable the operation to be carried out in compliance with international law. On 9 October 2015, the UN Security Council adopted Resolution *against the trafficking of migrants and the smuggling of people at sea in the Mediterranean*. Under Chapter VII, the Security Council authorises the relevant member states to inspect boats sailing in high seas off the Libyan coast *for a year*, if the member states have reasonable cause to suspect that the boats are being used for migrant trafficking or human smuggling. The resolution does not authorise the European Union to intervene in Libyan territorial waters. Then, on 14 June 2016, the Security Council unanimously adopted resolution 2292 (2016) authorizing inspection of suspected embargo-breaking vessels off Libya's Coast. The resolution represents a significant political approval of the operation and its objectives by the international community.

On 20 June 2016, the Council decided to extend Operation Sophia's mandate until 27 July 2017 and reinforced it by adding two supporting tasks: training of the Libyan coastguards and navy; contributing to the implementation of the UN arms embargo on the high seas off the coast of Libya. On 30 August and 6 September, 2016, Political and Security Committee (PSC) has adopted two decisions on the commencement of the two tasks.

The European Parliament in three resolutions adopted in the course of the year 2016, notably welcomed the positive role played by navy vessels in saving lives at sea and in disrupting criminal networks. The Parliament also called on the EU to continue and to step up its operations in the Mediterranean. In its Resolution of 5 April 2017, the European Parliament welcomed the use of common security and defence policy (CSDP) missions such as the Operation Sophia, which should be further strengthened as a means of protecting the EU's external borders and preventing the trafficking of human beings and smuggling of migrants.

In its Conclusions of 15 December 2016, the European Council underlined the need to enhance support for the Libyan coastguard, including through the operation Sophia, so as to increase its capacity to prevent the loss of life at sea and break the business model of smugglers. On 19 December 2016, the Council amended decision and introduced among other amendments possibility for the operation Sophia to exchange information with INTERPOL in the context of the fight against trafficking in human beings or the arms embargo and to exchange information with relevant third States and international organisations as necessary to meet the operational needs of the operation.

On 25 January 2017, the Commission and VP/HR issued joint communication on migration and the European Council has welcomed the communication in its declaration on 3 February 2017. The European Council noted that priority will be given to: training, equipment and support to the Libyan national coast guard and other relevant agencies. Complementary EU training programmes must be rapidly stepped up, both in intensity and numbers, starting with those already undertaken by the operation Sophia and building on its experience; further efforts to disrupt the business model of smugglers through enhanced operational action, within an integrated approach involving Libya and other countries on the route and relevant international partners, engaged Member States, CSDP missions and operations, Europol and the European Border and Coast Guard.

In its Conclusions of 6 February 2017, the Council agreed in line with the Malta declaration, the EU will give further priority to the provision of training, equipment and other support, with priority given to the Libyan Coastguard and Navy and other relevant legitimate Libyan agencies. The operation Sophia will continue focusing on disrupting the business model of human smuggling and trafficking networks. In addition, the operation Sophia will continue implementing its supporting tasks to train the Libyan Coastguard and Navy and to contribute to the implementation of the UN arms embargo.

On 25 July 2017, the Council extended the mandate of the Operation Sophia until 31 December 2018. The Council also amended the operation's mandate to: set up a monitoring mechanism of trainees to ensure the long-term efficiency of the training of the Libyan Coastguard; conduct new surveillance activities and gather information on illegal trafficking of oil exports from Libya; enhance the possibilities for sharing information on human trafficking with member states' law enforcement agencies, FRONTEX and EUROPOL.

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REVISION OF THE FRONTEX REGULATION / 2015

[➡ ARRIVED]

>  EUROPEAN AGENDA ON MIGRATION

>  PREVENTING IRREGULAR MIGRATION

CONTENT

In its resolution of 2 April 2014 on the mid-term review of the Stockholm Programme, the Parliament called for the role of Frontex to be reinforced in order to increase its capacity to respond more effectively to changing migration flows. In the same resolution, the EP had stressed that the Schengen external borders should in the future be guarded with the support of European border guards.

Along the same line, at its meeting on 16 October 2015, the European Council expressed its intention to work 'towards the gradual establishment of an integrated management system for external borders'.

Echoing the EP's and the European Council's requests, on 15 December 2015, the Juncker-Commission put forward a proposal for a

Regulation on a European Border and Coast Guard (EBCG), which was to be put into action at the sections of the EU external borders with the highest pressure. The proposed regulation, which repeals the Frontex Regulation, builds on the existing border management policy.

At its meeting of 16-18 February 2016, the European Council called on the Council and the EP to reach a political agreement on the current proposal by July 2016.

On 30 May 2016, the European Parliament Civil Liberties Committee adopted its report, as well as a mandate to open inter-institutional negotiations. The aim of the report was to amend the rules so as to:

- enhance the efficiency in dealing with the challenges faced by the EU at its borders, with regard to both migration and internal security and with the aim of preserving free movement within the Schengen area, and
- to increase transparency and accountability to the European Parliament, while respecting the sovereignty of EU member states.

The EP was also seeking to:

- further expand the role of the agency in return, by allowing it to assist member states with return operations (i.e. returning illegally-staying non-EU nationals to their country of origin), both operationally and technically, while the decision itself stays at national level;
- ensure that the EBCG does not organise return operations to any third country where risks of fundamental rights violations exist, in accordance with the non-refoulement principle;
- ensure that the European Border and Coast Guard Agency shall be accountable to the Parliament and Council.

Specifically, the Committee aimed to amend the original Commission proposal so that it would be up to the member states (in the Council) - and not the Commission, to decide on the intervention by qualified majority.

A political agreement was reached in trilogues on 21 June 2016.

The European Parliament adopted its position at first reading under the ordinary legislative procedure on 6 July 2016.

On 6 April 2016, the Council agreed on a negotiating position as a basis for the negotiations with the European Parliament.

The Council adopted the final text of the proposal on 13 September 2016. The Regulation was published in the Official Journal on 16 September 2016 and entered into force on 6 October 2016.

Main points include:

- Returns: the Frontex agency will have a greater role in returning migrants to their country of origin, but only when it comes to executing decisions which have already been taken by national authorities. The Agency will not be involved in returns between non-EU countries.

- Scope of the activities of the Frontex, which becomes the European Border and Coast Guard Agency: it will now also include support to Member States in the field of migration management, the fight against cross-border crimes and search and rescue operations. Regarding the Agency's right to intervene, the Council, on the basis of a proposal from the Commission, may rapidly adopt a decision requiring the Agency to provide assistance in the following cases:

1) when a Member State does not comply (within a set time limit) with a binding decision of the Management Board of the Agency to address vulnerabilities in its border management,

2) in the event of specific and disproportionate pressure at the external border that would put the functioning of the Schengen area at risk.

Based on the Council decision, the Member State concerned must cooperate with the Agency. Before making such a proposal to the Council, the Commission shall consult the Agency and inform the European Parliament without delay. If a Member State opposes a Council decision to provide assistance, the other EU countries may temporarily reintroduce internal border checks.

- Technical Equipment Pool: Parliament's negotiators ensured that the teams of border guards in the Rapid Reaction Pool will have the equipment they need by introducing the rapid reaction equipment pool that must be available no later than 10 days after the operational plan is agreed;

- Liaison Officers: Experts from the staff of the Agency will be deployed as liaison officers to monitor all EU Member States with external borders;

- Accountability and information: the European Parliament will be kept informed through regular reporting and access to information for MEPs.

An important point in the political agreement on the Regulation was that the controversial "right to intervene" was removed, so there could be no deployment of guards to an EU state without its consent.

It also includes a provision specifying that internal border checks in the Schengen free travel area can only be imposed by EU states as a last resort.

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ADDITIONAL FINANCING TO RESPOND TO THE MIGRATION CRISIS

[➡ ARRIVED]

> ■■■ EUROPEAN AGENDA ON MIGRATION

> ■■■ IMMEDIATE ACTION

CONTENT

On 23 September 2015, the Commission presented a Communication to the European Parliament, the European Council and the Council on 'State of Play of the Implementation of the Priority Actions under the European Agenda on Migration'. This Communication identifies a set of priority actions to be taken within the next six months. It outlines adaptations that will need to be made to the budget for 2015, as well as in the framework of the 2016 draft budget proposal.

Consequently, on 30 September 2015, the Commission presented a Draft Amending Budget No 7 for the year 2015, COM(2015) 485 final, introducing additional financial assistance to cover measures under the European Agenda on Migration to respond to the migration crisis, which are still to be taken in the remaining months of 2015.

The Draft Amending Budget No 7 for the year 2015 includes the following provisions:

- A reinforcement of emergency assistance provided under the Asylum, Migration and Integration Fund (AMIF) and the Internal Security Fund (ISF), for a total amount of EUR 100 million in commitment appropriations;
- An increase in the number of establishment plan posts for FRONTEX (+ 60 posts), EASO (+ 30) and EUROPOL (+ 30) to increase their capacity on the ground. The related reinforcement of salary expenditure amounts to EUR 1.3 million in commitment and payment appropriations for the three agencies combined;
- Additional funding for the European Neighbourhood Instrument (EUR 300 million in commitment appropriations), so that the EU Regional Trust Fund in response to the Syrian crisis ("Madad Fund") can reach at least EUR 500 million.
- An increase in payment appropriations for Humanitarian Aid of EUR 55,7 million through redeployment. A request for the transfer of commitment appropriations for Humanitarian Aid from the Emergency Aid Reserve (EAR) will be made separately, in order to reach EUR 200 million of humanitarian aid for refugees in need.

The Draft Amending Budget No 7 for the year 2015 was dealt with in fast track procedure. It was adopted by the Council on 9 October, and by the Parliament on 14 October 2015.

In its resolution of 14 October 2015 on the Council position on Draft Amending Budget No 7/2015, the European Parliament pointed out that the proposed measures have to be coupled with initiatives aimed at addressing the root causes of the migration and refugees crisis; it called on the Commission to present a long-term financial plan to respond to the migration and refugee crisis, including search and rescue operations, and to propose a revision of the Multiannual Financial Framework accordingly. It welcomed the institutions' and Member States' commitment to reinforce the Union's resources in response to the humanitarian situation of migrants and refugees and urged them to secure the necessary funds also for the coming years.

On 4 December 2015, the final act was published in the Official Journal.

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URGENCY RESETTLEMENT SCHEME

[➡ ARRIVED]

- > **EUROPEAN AGENDA ON MIGRATION**
- > **IMMEDIATE ACTION**

CONTENT

The number of refugees worldwide continues to rise due to the ongoing and new conflicts. According to the United Nations High Commissioner for Refugees (UNHCR) report on projected global resettlement needs for 2017, it is estimated that over 1.9 million refugees globally will be in need of resettlement, which is a 72 per cent increase from the estimated needs in 2014 (691,000 persons).

Many migrants and refugees who try to come to Europe risk their lives by embarking on perilous sea journeys to escape persecution, conflict, instability and poverty.

In its European Agenda for Migration of May 2015, the European Commission called on the Member States to step up resettlement

efforts in order to provide safe and legal ways into the EU for displaced persons in clear need of international protection who are currently hosted by non-industrial countries.

On 8 June 2015, the Commission presented a Recommendation to the Member States on a European resettlement scheme aimed at resettling 20 000 people in need of international protection over a period of two years.

The European Parliament, in its resolution from 12 April 2016 on the situation in the Mediterranean and the need for a holistic EU approach to migration, underlined that:

- resettlement was one of the preferred options for granting safe and lawful access to the Union for refugees;
- resettlement through the UNHCR was a well-established humanitarian programme, and could help manage orderly arrival of asylum-seekers onto Member State territories;
- the EU needs a binding and mandatory legislative approach which must provide for resettlement of a meaningful number of refugees, both with regard to numbers of asylum-seekers arriving in the EU and the global resettlement needs;
- A permanent, mandatory EU-wide resettlement programme was needed.

The European Council of 25-26 June 2015 agreed that all Member States would participate, including through multilateral and national schemes. On 20 July 2015, the Member States agreed to resettle 22 504 persons in clear need of international protection, in line with the figures put forward by the United Nations High Commissioner for Refugees (UNHCR). Iceland, Liechtenstein, Norway and Switzerland participate in this resettling effort through multilateral and national schemes.

A year later, the European Council of 28 June 2016 recognised the need for a partnership framework with third countries, placing an emphasis on cooperation on readmission and return with key countries of origin and transit.

On 18 March 2016, an EU-Turkey statement was issued with Turkish Prime Minister Ahmed Davutoğlu, whereby the parties agreed on principles for cooperation, in particular, 'to resettle, for every Syrian readmitted by Turkey from the Greek islands, another Syrian from Turkey to the EU Member States, within the framework of the existing commitments'.

At its meeting of 28 June 2016, the European Council reiterated its call for further action to accelerate the implementation of the relocation and resettlement schemes. The Bratislava Roadmap of 16 September 2016 reaffirmed the need to apply the principles of responsibility and solidarity in future migration policy.

In the seventh progress report published on 9 November 2016, the Commission confirmed that the number of resettlements from Turkey under the EU-Turkey Statement continued to increase.

On 8 December 2016, the Commission published its eighth progress report on the relocation and resettlement schemes. The number of resettled refugees had reached 13 887. The Commission was confident that the resettlement goal would be reached in the course

of 2017 and suggested amending the second relocation decision to allow a further 54,000 persons to be resettled under a voluntary arrangement and subtracting this number from the relocation goal of 160 000.

In its tenth progress report published on 2 March 2017, Commission took note of significant progress achieved on resettlement, with well beyond half of the agreed 22 504 resettlements already completed: A majority of States participating in the scheme indicated that their resettlement efforts were primarily, but not exclusively, directed at Syrians staying in Jordan, Lebanon and Turkey.

In its thirteenth progress report of 13 June 2017, the Commission noted that 22 504 people had been resettled under the emergency resettlement scheme and the 1:1 mechanism with Turkey. The Commission observed that over two thirds of the 22 504 resettlements agreed had already been completed, whereas seven Member States (Estonia, Finland, Germany, Ireland, the Netherlands, Sweden and the United Kingdom) as well as three Associated Countries (Iceland, Liechtenstein and Switzerland) had already fulfilled their pledges under the 20 July 2015 Conclusions.

In the fifteenth progress report of 6 September 2017, the Commission informed that the total number of people resettled under both the 20 July 2015 and the EU-Turkey scheme since their launch is 22 518. However, it deplored that nine Member States had not yet resettled under the 20 July 2015 scheme (Bulgaria, Croatia, Cyprus, Greece, Malta, Poland, Romania, Slovakia and Slovenia) and 13 Member States had not resettled under the EU-Turkey Statement. By December 2017, a total of 25 980 persons had been resettled under both schemes.

On 27 September 2017, the Commission presented a recommendation on a new EU resettlement scheme to bring at least 50 000 of the most vulnerable persons in need of international protection to Europe over the next two years. The new scheme should be in place by October 2019 and will replace the current schemes. The Commission has set aside €500 million to support Member States' resettlement efforts. It will cover the period until the proposed permanent EU Resettlement Framework is adopted. The Commission announced that following the recommendation, 19 Member States had pledged for a total of 39 758 resettlement places by December 2017.

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CONTENT

On 18 March 2016, the European Council and Turkey reached an agreement aimed at stopping the flow of irregular migration via Turkey to Europe. According to the EU-Turkey Statement, all new irregular migrants and asylum seekers arriving from Turkey to the Greek islands and whose applications for asylum have been declared inadmissible should be returned to Turkey.

The agreement followed a series of meetings with Turkey since November 2015 dedicated to deepening Turkey-EU relations as well as to strengthening their cooperation on the migration crisis, with notably the EU-Turkey Joint Action Plan activated on 29 November 2015 and the 7 March 2016 EU-Turkey statement. In addition, on 15 December 2015, the Commission proposed a voluntary humanitarian admission scheme for Syrian Refugees in Turkey.

In order to break the business model of the smugglers and to offer migrants an alternative to putting their lives at risk, the EU and Turkey decided in March 2016 to work together to end the irregular migration from Turkey to the EU. For that purpose, the EU and Turkey agreed that,

- 1) All new irregular migrants crossing from Turkey to the Greek islands as of 20 March 2016 will be returned to Turkey;
- 2) For every Syrian being returned to Turkey from the Greek islands, another Syrian will be resettled to the EU;
- 3) Turkey will take any necessary measures to prevent new sea or land routes for irregular migration opening from Turkey to the EU;
- 4) Once irregular crossings between Turkey and the EU are ending or have been substantially reduced, a Voluntary Humanitarian Admission Scheme will be activated;
- 5) The fulfilment of the visa liberalisation roadmap will be accelerated with a view to lifting the visa requirements for Turkish citizens at the latest by the end of June 2016. Turkey will take all the necessary steps to fulfil the remaining requirements;
- 6) The EU will, in close cooperation with Turkey, further speed up the disbursement of the initially allocated €3 billion under the Facility for Refugees in Turkey. Once these resources are about to be used in full, the EU will mobilise additional funding for the Facility up to an additional €3 billion by the end of 2018;
- 7) The EU and Turkey welcomed the ongoing work on the upgrading of the Customs Union.

8) The accession process will be re-energised, with Chapter 33 opened during the Dutch Presidency of the Council of the European Union and preparatory work on the opening of other chapters to continue at an accelerated pace;

9) The EU and Turkey will work to improve humanitarian conditions inside Syria.

Turkey furthermore agreed to accept the rapid return of all migrants not in need of international protection crossing from Turkey into Greece, and to take back all irregular migrants intercepted in Turkish waters. Turkey and the EU decided to continue stepping up measures against migrant smugglers and welcomed the establishment of the NATO activity on the Aegean Sea.

Moreover, the European Union has begun disbursing the 3 billion Euro of the Facility for Refugees in Turkey for concrete projects; work has also advanced on visa liberalisation and in the accession talks, including the opening of Chapter 17 last December 2015. In September 2016, the European Commission announced the creation of an 'Emergency Social Safety Net' of €348 million starting from October 2016. Up to one million of the most vulnerable refugees will be able to meet their basic needs by receiving monthly cash-transfers via an electronic card.

In its evaluation of the 2015 Report on Turkey, the European Parliament took a special interest in the EU-Turkey cooperation on migrations. It welcomed the statement, but recalled that outsourcing was not a credible long term solution and calls EU Members States for more solidarity in welcoming refugees. It also stressed that:

- the EUR 3 billion funds of 'Refugee Facility for Refugees in Turkey' have to be used to relieve refugees and that the Commission has to make sure the funds are properly used and report regularly to the EP on this matter.
- special attention was to be paid to vulnerable groups such as women and children, particularly orphans, and religious minorities such as Christians and Yazidis; emphasises the urgent need to address gender-related violence and abuse against women and girls on the migrant routes crossing Turkey;
- the European Commission was to make sure that rule of non-refoulement was duly respected.

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TARGETED REVISION OF THE SCHENGEN BORDERS CODE (ANTI-TERRORISM MEASURES)

[➡ ARRIVED]

CONTENT

It is estimated that 5,000 EU citizens have travelled to conflict zones and joined terrorist groups such as ISIL/Da'esh. Considering the involvement of some of the returning foreign fighters in recent terrorist attacks in Europe, the control of EU nationals at external borders appears relevant in the fight against terrorism.

Following the terrorist attacks in Paris on 13 November 2015, the Justice and Home Affairs Council agreed on 20 November 2015 on a number of measures that should be adopted as soon as possible, including targeted revision of the Schengen Borders Code (article 7 thereof).

Under the current rules, identity checks carried out on EU nationals at the EU external borders are not systematic. The revision requested by the Council would aim at enabling systematic and permanent checks at all points of entry at the external borders of the EU, including the verification of biometric information against the relevant databases.

On 15 December 2015, the Commission put forward a proposal for a Regulation (EC) No 562/2006 amending the Schengen Borders Code as regards the reinforcement of checks against relevant databases at external borders to introduce mandatory systematic checks of EU citizens at external land, sea, and air borders. The proposal was designed to contribute in the prevention of threats against internal security and public policy.

In October 2016, the Commission included the proposal as a priority in its Work programme for 2017.

On 25 February 2016, the Council agreed its negotiating position on the proposed regulation. On the basis of this mandate, the Dutch Presidency started negotiations with the European Parliament.

On 21 June 2016, the EP Civil Liberties Committee (LIBE) adopted a draft legislative resolution endorsing the proposed regulation. The Committee proposed a series of amendments to the proposed regulation, which notably was seeking to:

- Enable Member States to run targeted checks. According to the Committee, if systematic controls slow down border traffic flows too much, the EU Member States should be able to carry out only targeted checks at specified border crossings instead, but under the condition that it can first be concluded that such a relaxation of the rules would not increase security risks;
- Set the principle that every risk assessment should also be based on EU-wide security indicators developed by the Commission, the new EU border and coast guard agency and the Council;
- Promote better data management, technological progress and improved connections between member states' information systems, so as to ensure a limited effect of checks on the duration of borders crossings;
- Ensure that biometric identifiers in passports, such as fingerprints or facial images, should be thoroughly checked and verified

whenever a person's identity is in doubt;

- Making the check of all third-country nationals who are leaving the EU against relevant databases mandatory, so as to ensure that they pose no security threat.

On 27 June 2016 the Committee report was tabled for plenary.

Trilogues negotiations started. There were four main issues at the centre of discussions between the Council and the EP: 1) the checking system in the transitional period with a distinction between air vs. land/sea borders, 2) the consultation of EU data and national databases, the EP wanting the European data base to be systematically consulted; 3) the possibilities for targeted checks, the EP wanting to foresee more cases for such checks, and 4) the sunset clause, which the Council did not want to include.

On 5 December 2016, the EP and the Council reached an informal deal on draft regulation. Main elements of the agreement are following:

- It obliges Member States to carry out systematic checks on all persons, including persons enjoying the right of free movement under EU law (i.e. EU citizens and members of their families who are not EU citizens) when they cross the external border.
- EU-wide databases should be used as much as possible when doing border checks, in particular the Schengen Information System, the Interpol database on stolen or lost travel documents and other European databases.
- If systematic checks cause too lengthy border delays, sample checks could be introduced at EU land and sea borders instead. MEPs managed to include air borders, by granting national authorities a transitional period of up to six months to adjust their air border infrastructure, plus, if necessary, an additional 18 months under exceptional circumstances.
- Member States wishing to ease airport checks would have to demonstrate that this would not lead to risks for internal security, public policy, international relations or public health.
- Where there is doubt on the authenticity of the travel document or on the identity of the third country national, the checks, where possible, shall include the verification of at least one of the biometric identifiers integrated in the travel documents.

On 16 February 2017, the Parliament adopted its position at first reading which reflects the compromise agreement reached between the institutions. On 7 March 2017, the Council approved the Parliament's position and adopted the regulation which was subsequently signed by the presidents of both institutions. The regulation was published in the EU Official Journal on 18 March 2017 and entered into force 20 days later.

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(see chapter SMARTER INFORMATION SYSTEMS - (NEW SMART BORDERS PACKAGE))

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EMERGENCY SUPPORT MECHANISM FOR THE REFUGEE CRISIS

[➡ ARRIVED]

> EUROPEAN AGENDA ON MIGRATION

> IMMEDIATE ACTION

CONTENT

On 2 March 2016, the Commission presented a proposal for a Council Regulation aimed at creating an emergency assistance instrument, which would fill a gap in the available instruments in order to address humanitarian needs within the territory of the Union in relation with the migration crisis.

The Council adopted Regulation (EU) 2016/369 on 15 March 2016 on the provision of emergency support within the Union entered into force on 16 March 2016, day of its publication in the Official Journal of the EU. The new Regulation translates into practice a commitment of the European Council. It enables the EU to provide an immediate and effective response to the very difficult situation

that is rapidly developing on the ground. The Regulation is based on Article 122(1) of the TFEU, which does not provide for a role by the European Parliament.

As irregular flows of migrants along the Western Balkans route have come to an end, around 35 000 refugees are currently in Greece. The help provided under the new instrument is needs-based and aimed at preserving life, preventing human suffering and maintaining human dignity. It includes food, shelter, water, medicine and other basic necessities. It is being delivered by the Commission or by partner organisations selected by the Commission in close cooperation with the Greek authorities.

The emergency support mechanism can also be activated in response to other crises or disasters with severe humanitarian consequences, such as nuclear accidents, terrorist attacks and epidemics. It can, however, only be used if the scale and impact of the disaster is exceptional and where the instruments available to member states and to the EU are insufficient.

On 9 March 2016, the Commission proposed a Draft Amending Budget No 1/2016 aimed at creating the budget structure for that instrument and at making available EUR 100 million in commitment appropriations and EUR 80.2 million in payment appropriations for immediate funding needs.

The Commission estimates that €300 million will be needed to provide emergency support for Greece and other Member States overwhelmed by the refugee crisis in 2016, and a further €200 million in each of the years 2017 and 2018.

The Draft Amending Budget No 1/2016 is also designed to reinforce the staffing levels of the European counter-terrorism centre in Europol. This is to enable the agency to play a central role in the fight against terrorism in the EU following the terrorist attacks in Paris of 13 November 2015.

On 16 March 2016, the Council position on the Draft Amending Budget No 1/2016 was published.

The European Parliament adopted the Draft Amending Budget No 1/2016 on 13 April 2016. At the same time, it endorsed the new instrument to provide emergency support within the Union.

In its resolution, the European Parliament criticised the creation of a new ad hoc mechanism without an overall strategy to address the refugee crisis and without ensuring the full observance of Parliament's prerogatives as co-legislator. It considered that a more sustainable legal and budgetary framework should be envisaged in order to allow for humanitarian aid within the Union to be mobilised in the future, when circumstances so require; notes that such emergency funding, meant at responding to crises and unforeseen situations, should by its very nature be covered by special instruments and be counted outside the MFF ceilings.

On 31 May 2016, Draft Amending Budget No 1/2016 was approved by the Council and the final act was published in the Official Journal.

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ENTRY/EXIT SYSTEM (2016 SMART BORDERS PACKAGE)

[➡ ARRIVED]

- >  **EUROPEAN AGENDA ON MIGRATION**
- >  **SECURING EXTERNAL BORDERS**

CONTENT

Building on its earlier smart borders package from 2013, which did not secure a consensus among the co-legislators, the Commission initiated a two-step exercise in 2014 consisting of additional studies in combination with a pilot phase in order to assess the technical

feasibility of some aspects of the projects. Then, in a second phase, the results were tested by the Agency for the Operational Management of Large-Scale IT systems in the area of freedom, security and justice (eu-LISA). The results of these tests served as a basis for the new package of proposals, put forward on 6 April 2016. The package includes a revised proposal establishing an Entry/Exit System (EES), which aims to speed up and reinforce border check procedures for non-EU nationals travelling to the EU; an amendment of the Schengen Borders Code to integrate the technical changes that result from the proposed Entry-Exit System; and a communication on 'Stronger and Smarter Information Systems for Borders and Security', which explores how information systems can further enhance external border management and internal security in the EU.

It will apply to non-EU nationals, both those that require a visa and those that are exempted, travelling to the Schengen area. The system is intended to register the name, type of travel document, biometrics (four fingerprints and a visual image) and the date and place of entry and exit. These actions will facilitate the border crossing of bona fide travellers, detect over-stayers (authorised stay is 90 days in any 180 day period) and identify undocumented persons in the Schengen area. The system will also record refusals of entry.

In his 2017 State of the Union Letter of Intent the Commission president Juncker called upon the EP and the Council to adopt the entry-exit system by the end of 2018.

On 30 November 2016, a draft report on the Commission's proposal for establishing an entry-exit system was presented in the European Parliament's Committee on Civil Liberties, Justice and Home Affairs. The rapporteur, Agustín Díaz de Mera García Consuegra (EPP, Spain) greeted the changes to the new legislative proposal but deplored the decision to withdraw the proposal for a registered travellers programme (RTP), which the Parliament had considered 'a bold way of speeding up border crossings'. The rapporteur stressed that one of the most important parts of the proposal is the interoperability of the EES with the Visa Information System (VIS). Observing that the principle of proportionality is upheld, the rapporteur came to the conclusion that interoperability does not interfere in any way with the rights enshrined in Articles 7 (respect for private and family life) and 8 (protection of personal data) of the EU Charter of Fundamental Rights. The draft report was adopted on 27 February 2017 by 38 votes to 7, with one abstention. MEPs backed the Commission's proposal to store a combination of four fingerprints and a facial image of travellers arriving in the Schengen area but requested data to be stored for only two years, not five as proposed by the Commission. They also wanted to ensure that the text is in line with the provisions of the General Data Protection Regulation. MEPs found that the purposes of data processing in the new system should also be clarified and treated separately. Migration handling should be the first purpose and law enforcement an additional one.

The Committee voted to open negotiations with the Council by 40 votes to 4, with one abstention. The committee report was tabled and adopted at the plenary session of 8 March 2017. The Parliament also decided to enter into negotiations with the Council.

On 25 October 2017, the European Parliament plenary voted to adopt the Entry/Exit System by 477 votes to 139, with 50 abstentions.

On 7 December 2016, the Council Presidency submitted its report on the progress achieved on the smart borders package. The report stated widespread support by Member States for the objectives of the proposals, which they considered an improvement compared

to the 2013 version. The Council adopted its negotiating mandate on 2 March 2017. On 20 November 2017, the Council adopted the regulation.

In its opinion 06/2016 of 21 September 2016, the European Data Protection Supervisor (EDPS) warned against the significant and potentially intrusive nature of the proposed processing of personal data under the EES and noted that EES data would be processed for two different purposes: border management and law enforcement, and recommended clearly introducing the difference between these objectives.

On 29 June 2017, an agreement between the Maltese presidency and the European Parliament was reached on the political issues around the proposals for the EES and its use. Data retention was set at three years and exceptionally for five years when there is no exit data after the expiry of the authorised stay period. The institutions agreed on the law-enforcement access but not on the access of asylum authorities. The possibility of transferring data for law enforcement or return purposes to third countries and EU Member States not participating in the EES was retained under certain conditions.

On 30 November 2017, European Parliament President Antonio Tajani and Council President Matti Maasilta signed the legislative act during the European Parliament plenary session in Brussels.

The act was published in the Official Journal of the European Union on 9 December 2017. The system is due to become fully functional by 2020.

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REGULATION AMENDING THE SCHENGEN BORDERS CODE AS REGARDS THE USE OF THE ENTRY/EXIT SYSTEM (NEW SMART BORDERS PACKAGE)

[➡ ARRIVED]

- >  EUROPEAN AGENDA ON MIGRATION
- >  SECURING EXTERNAL BORDERS

CONTENT

Building on its earlier smart borders package from 2013, which did not secure a consensus among the co-legislators, the Commission initiated a two-step exercise in 2014 consisting of additional studies in combination with a pilot phase in order to assess the technical feasibility of some aspects of the projects. Then, in a second phase, the results were tested by the Agency for the Operational Management of Large-Scale IT systems in the area of freedom, security and justice (eu-LISA). The results of these tests served as a basis for the new package of proposals, put forward on 6 April 2016. The package includes a revised proposal establishing an Entry/Exit System (EES), which aims to speed up and reinforce border check procedures for non-EU nationals travelling to the EU; an amendment of the Schengen Borders Code to integrate the technical changes that result from the proposed Entry-Exit System; and a communication on 'Stronger and Smarter Information Systems for Borders and Security', which explores how information systems can further enhance external border management and internal security in the EU. In his 2017 State of the Union Letter of Intent, Commission president Juncker called upon the EP and the Council to adopt the entry-exit system by the end of 2018.

In the European Parliament, on 23 November 2016, the rapporteur Agustín Díaz de Mera García Consuegra (EPP, Spain) presented a draft report to the Committee on Civil Liberties, Justice and Home Affairs. This draft report complements the draft report on establishing an Entry/Exit System (EES). It is also closely linked to the proposal for the reinforcement of checks against relevant databases at external borders. The rapporteur emphasised that more efforts are needed to facilitate border crossings and to meet the general objectives of the EES. In his view, Member States should be urged to develop national facilitation programmes (such as the registered travellers programme) based on common legislation to achieve harmonisation. He stated that different legislative texts 'need to be technically aligned in order to make the rules governing the Schengen area more coherent and avoid legal contradictions'. The draft report was adopted in the Committee on Civil Liberties, Justice and Home Affairs on 27 February 2017. The Committee voted to open negotiations with the Council. The Committee report was tabled for plenary on 8 March 2017 and was adopted. During the same plenary session, the Parliament also decided to begin negotiations with the Council.

On 25 October 2017, the European Parliament plenary approved the amendments needed to integrate the new Entry/Exit System into the Schengen Borders Code, by 496 votes to 137, with 32 abstentions.

On 7 December 2016, the Council Presidency submitted its report on the progress achieved on the smart borders package. The report stated widespread support by Member States for the objectives of the proposals, which they considered an improvement compared to the 2013 version. The Council adopted its negotiating mandate on 2 March 2017. The Council maintained that the entry-exit system should apply to third country nationals, storing their entry, exit and refusal of entry, storing information on their identity and travel documents as well as biometric data (four fingerprints and the facial image). The information stored should be accessible to border authorities, visa authorities and the national authorities competent to check if a third country national fulfils the conditions of entry or stay. Moreover, the Council agreed that the data would also be available to the designated law enforcement authorities and Europol, to prevent, detect and investigate terrorist offences or other serious crimes on certain specified conditions. On 20 November 2017, the Council adopted the regulation.

In its opinion 06/2016 of 21 September 2016, the European Data Protection Supervisor (EDPS) warned against the significant and potentially intrusive nature of the proposed processing of personal data under the EES, which must be considered under both Articles 7 and 8 of the EU Charter of Fundamental Rights. The EDPS noted that EES data would be processed for two different purposes: border management and law enforcement, and recommended clearly introducing the difference between these objectives.

On 21 September 2016, the European Economic and Social Committee adopted its opinion on the Entry/Exit System. The Committee concluded that the EES in its new form is indeed needed, providing added value in terms of security at European level. Security and proper law enforcement, however, should never depart from the fundamental values of the EU.

On 29 June 2017, an agreement between the Maltese presidency and the European Parliament was reached on the political issues of a proposal for an Entry-Exit System and a proposal amending the Schengen Border Code in relation to the Entry-Exit System. The data retention was set at three years and exceptionally for five years when there is no exit data after the expiry of the authorised stay period. The institutions agreed on the law-enforcement access but not on the access of asylum authorities. The possibility of transferring data for law enforcement or return purposes to third countries and EU Member States not participating in the EES was retained under certain conditions.

On 30 November 2017, European Parliament President Antonio Tajani and Council President Matti Maasilta signed the legislative act during the European Parliament plenary session in Brussels.

The act was published in the Official Journal of the European Union on 9 December 2017. The system is due to become fully functional by 2020.

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EUROPEAN BORDER AND COAST GUARD AGENCY

[➡ ARRIVED]

- > **EUROPEAN AGENDA ON MIGRATION**
- > **SECURING EXTERNAL BORDERS**

CONTENT

In its resolution of 2 April 2014 on the mid-term review of the Stockholm Programme, the European Parliament had stressed that the Schengen external borders should in the future be guarded with the support of European border guards.

Along the same line, at its meeting on 16 October 2015, the European Council expressed its intention to work 'towards the gradual establishment of an integrated management system for external borders'.

Echoing the Parliament's and the European Council's requests, the Juncker-Commission announced in the Agenda on Migration that it would submit a proposal establishing European System of Border Guards, which was to be put into action at the sections of EU's external borders with the highest pressure.

On 15 December 2015, the Commission came forward with the proposal for a regulation on the European Border and Coast Guard (EBCG) as part of a package of measures aimed at ensuring the protection of the EU's external borders.

The idea behind the proposal is that, in an area of free movement without internal borders, managing Europe's external borders must be a shared responsibility.

Under the current system, regular border control is the exclusive responsibility of the Member States, whilst Frontex's role focuses on the coordination of deployment of additional experts and technical equipment to the border areas which find themselves under significant pressure. Yet, considering the growing pressure at the EU's external border, a more integrated system with a more comprehensive involvement of Frontex would contribute to filling the gaps in the existing border control mechanism.

At its meeting of 16-18 February 2016, the European Council called on the Council and the EP to reach a political agreement on the current proposal by July 2016.

On 30 May 2016, the European Parliament Civil Liberties Committee adopted its report, as well as a mandate to open inter-institutional negotiations. The aim of the report was to amend the rules so as to:

- enhance the efficiency in dealing with the challenges faced by the EU at its borders, with regard to both migration and internal security and with the aim of preserving free movement within the Schengen area, and
- to increase transparency and accountability to the European Parliament, while respecting the sovereignty of EU member states.

The EP was also seeking to:

- further expand the role of the agency on return, by allowing it to assist member states with return operations (i.e. returning illegally-staying non-EU nationals to their country of origin), both operationally and technically, while the decision itself stays at national level;
- ensure that the EBCG does not organise return operations to a third country where risks of fundamental rights violations exist, in accordance with the non-refoulement principle; ensure that the European Border and Coast Guard Agency shall be accountable to the Parliament and Council.

Specifically, the Committee aimed to amend the original Commission proposal so that it would be up to the member states (in the Council) - and not the Commission, to decide on the intervention by qualified majority.

A political agreement was reached in trilogues on 21 June 2016.

The European Parliament adopted its position at first reading under the ordinary legislative procedure on 6 July 2016.

On 6 April 2016, the Council agreed on a negotiating position as a basis for the negotiations with the European Parliament.

The Council adopted the final text of the proposal on 13 September 2016. The Regulation was published in the Official Journal on 16 September 2016 and entered into force on 6 October 2016.

Main points include:

- Returns: the Frontex agency will have a greater role in returning migrants to their country of origin, but only when it comes to executing decisions which have already been taken by national authorities. The Agency will not be involved in returns between non-EU countries.

- Scope of the activities of the FRONTEX, which becomes the European Border and Coast Guard Agency: It will now also include support to Member States in the field of migration management, the fight against cross-border crimes and search and rescue operations. Regarding the Agency's right to intervene, the Council, on the basis of a proposal from the Commission, may rapidly adopt a decision requiring the Agency to provide assistance in the following cases:

- 1) when a Member State does not comply (within a set time limit) with a binding decision of the Management Board of the Agency to address vulnerabilities in its border management,

- 2) in the event of specific and disproportionate pressure at the external border that would put the functioning of the Schengen area at risk.

Based on the Council decision, the Member State concerned must cooperate with the Agency. Before making such a proposal to the Council, the Commission shall consult the Agency and inform the European Parliament without delay. If a Member State opposes a Council decision to provide assistance, the other EU countries may temporarily reintroduce internal border checks.

- Technical Equipment Pool: Parliament's negotiators ensured that the teams of border guards in the Rapid Reaction Pool will have the equipment they need by introducing the rapid reaction equipment pool that must be available no later than 10 days after the operational plan is agreed;

- Liaison Officers: Experts from the staff of the Agency will be deployed as liaison officers to monitor all EU Member States with external borders;

- Accountability and information: the European Parliament will be kept informed through regular reporting and access to information for MEPs.

An important point in the political agreement on the Regulation was that the controversial "right to intervene" was removed, so there could be no deployment of guards to an EU state without its consent.

It also includes a provision specifying that internal border checks in the Schengen free travel area can only be imposed by EU states as

a last resort.

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EUROPEAN TRAVEL DOCUMENT FOR THE RETURN OF ILLEGAL MIGRANTS

[➡ ARRIVED]

- >  **EUROPEAN AGENDA ON MIGRATION**
- >  **SECURING EXTERNAL BORDERS**

CONTENT

The effective return of third country nationals who do not fulfil or no longer fulfil the conditions for entry, stay or residence in the Member State of the Union is an essential part of a comprehensive approach to ensure the proper functioning of the EU migration policies and for maintaining public trust in the Union migration system.

The lack of valid travel documents issued by the country of destination of the returnee is one of the main obstacles to successful return. At present, Member States may issue a substitute document for those illegally staying third-country nationals who do not possess a valid travel document. Council Recommendation of 30 November 1994 establishes a standard travel document for the expulsion of third-country nationals; however, its recognition by third countries is low, including because of its unsatisfactory security features and standards.

The need to address this issue was underlined in the Council conclusions of 8 October 2015, in which Member States committed themselves to using the standard travel document more regularly in return operations. The European Council conclusions of 15 October 2015 further stressed this need.

On 15 December 2015, the European Commission submitted a proposal for a Regulation establishing a dedicated European travel document for the return of third-country nationals subject to a return decision. The proposed rules provide for a uniform format and enhanced technical and security features to ensure a wider acceptance by third countries, as well as the increased use of such

documents for the purpose of readmission. The aim of the new regulation is to remove some of the reasons why the travel document is not always used by Member States or recognised by the third countries. It also aims to reduce the period during which returnees without valid identity documents are held in administrative detention. By using the same security features laid down in 2002 for visas issued by EU countries, the document's recognition should be enhanced and the administrative burdens reduced for both EU and destination countries' authorities.

On 30 May 2016, the Civil Liberties Committee endorsed the proposal and called on the EU and Member States to promote the use of this harmonised document in the context of readmission agreements reached with third countries. On 6 June 2016, the committee tabled its report for Plenary, in which it stressed that:

- the low acceptance by third countries of standard travel documents was due to the lack of harmonised and adequate security standards and of common technical features, including safeguards against counterfeiting and falsification,
- Member States should take all the necessary steps to ensure the systematic use of the European travel document for return in order to ensure the effective return of migrants staying irregularly on the territory,
- the readmission of own nationals is an obligation under international customary law with which all States are required to comply,
- Member States, the Commission and the European External Action Service should prioritise readmission in all relevant contacts at political level with the countries of origin of irregular migrants to ensure that a consistent message is received by those countries. In this context, cooperation with the diplomatic representations of the countries of origin is crucial and should be prioritised.
- Member States should systematically keep a record of the European travel documents for return which have been issued,
- Commission shall review this Regulation no later than 18 months after its entry into force in order to assess its impact on the effective enforcement of return decisions, and whether it is necessary to amend any of the features of the European travel document for return.

On 23 June 2016, the European Parliament and the Council reached an informal agreement on the proposed regulation in inter-institutional negotiations.

On 15 September 2016, the European Parliament adopted its position at first reading and amended the Commission proposal by stipulating that:

- when identifying illegally staying third-country nationals and issuing documents, including the European travel document for return, the EU should cooperate with diplomatic representations and negotiate with third countries entering into readmission agreements;
- the future regulation should establish a uniform European travel document for the return of illegally staying third-country nationals, in particular its format, security features and technical specifications;
- the European travel document for return shall contain, among others, information about the departure and arrival of the third-country national;
- the European travel document for return shall be valid for a single journey up until the third-country national for whom a return

decision was issued arrives in the third country of return.

On 13 October 2016, the Council approved the Parliament's position at 1st reading and adopted a Regulation (EU) 2016/1953 on a uniform European travel document. The regulation entered into force on 7 December 2016 and shall apply from 8 April 2017. By 8 December 2018, the Commission shall review and report on the effective implementation of this Regulation.

According to the final agreement, the enhanced security features and technical specifications of the new travel document will facilitate its recognition by third countries and will speed up the returns in the context of readmission agreements or other arrangements concluded by the EU or by the member states with third countries. The new travel document will also reduce administrative and bureaucratic burdens and the length of the administrative procedures necessary for ensuring return and readmission of illegally staying third-country nationals.

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UNIFORM FORMAT FOR VISAS

[➡ ARRIVED]

CONTENT

The introduction of a uniform format for visas is an important element of the EU visa policy. A uniform format for visas should contain all the necessary information and meet very high technical standards, notably as regards safeguards against counterfeiting and falsification. Furthermore, it must also be suited to use by all the Member States and bear universally recognizable security features, which are clearly visible to the naked eye.

The current security concept for a uniform format for visas dates back to 1995, when it was initially developed under the intergovernmental Schengen cooperation. Regulation (EC) No 1683/1995 on a uniform format for visas took it over into EU law. Since then, it has been modified substantially twice.

Over the past few years, forged visa stickers have arisen in several Member States. The present sticker is, as far as specialists are concerned, not secure any longer.

On 24 June 2015, the Commission presented a Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1683/1995 laying down a uniform format for visas. The amending Regulation is based on Article 77(2)(a) of the TFEU.

On 18 February 2016, the Civil Liberties, Justice and Home Affairs Committee (LIBE) adopted the draft report prepared by the rapporteur (Sylvia-Yvonne Kaufmann (S&D, Germany) without any amendments of the Commission proposal and tabled it for the plenary. On 1 June 2017, the European Parliament adopted at first reading, following the ordinary legislative procedure, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 1683/1995 of 29 May 1995 laying down a uniform format for visas.

On 20 June 2017, the Council adopted the draft regulation amending Regulation (EC) No 1683/95 laying down a uniform format for visas.

The final act was signed by the Council and the European Parliament on 4 July 2017, and published in the EU Official Journal on 28 July 2017.

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VISA POLICY PACKAGE – VISA CODE RECAST AND TOURING VISA

[ DERAILED]



CONTENT

In April 2014, the Commission submitted a package with important changes to the EU visa rules. The package includes a Proposal for a regulation establishing a new type of visa ('touring visa') and a Proposal for a regulation on the Union Code on Visas. The Union Code on Visas proposal was also accompanied by a Commission Impact Assessment.

The Justice and Home Affairs Council meeting on 8 and 9 October 2015 discussed the Commission proposals. The Council agreed to take into account some of the Presidency's suggestions for continuing work on the Commission's April 2014 'visa package'. The Council discussed the Visa Code recast further on 13 April 2016 with COREPER agreeing on a negotiations mandate with the European Parliament on the Union Code on Visas.

A report adopted on 6 April 2016 by the European Parliament's LIBE Committee (rapporteur Brice Hortefeux EPP, France) proposes changes to the Commission proposal for a touring visa (and amending the Schengen Agreement Implementing Convention and Regulations (EC) No 562/2006 and (EC) No 767/2008), focusing on the following elements:

- the need to limit visas' scope to performing artists/elite sports persons and their support staff who have clearly demonstrated the

administrative and logistical obstacles to organising a tour/competition in several Member States in the Schengen area lasting more than three months;

- establishing stringent conditions and procedures for issuing touring visas and security;
- the need for providing guarantees before a touring visa is issued, so as to limit the risks of fraudulent use, abuse or illegal immigration;
- the need for strong cooperation between Member States to encourage touring visas' issuing and to enable possible adjustments, and prolonging of the stage for mutual consultation between the Member States that the applicant wishes to visit;
- the need for a more exhaustive list of substantiating documents for examining touring visa applications (assessing candidates' sufficient proof that they will not stay for more than 90 days on the territory of a Member State and that during the total length of stay they will carry out one of the stated activities).

The Council examined the 'Touring visa' proposal between February and November 2015, and in February, September and October 2016.

On 25 April 2016, the LIBE Committee recommended amendments to the proposal for a regulation on the Union Code on Visas (Visa Code) (recast). MEPs suggested, among others, the following proposals:

- the maximum stay of 90 days under the regulation would apply to a possible application for international protection on Member States' territory and to the rights of refugees and persons requesting international protection, in particular concerning non-refoulement;
- concerning airport transit visa requirements, Member States would be able to prolong their application only twice, when lifting it would lead to a substantial influx of irregular migrants. Should such an influx, the Member State concerned would ask the Commission to modify Annex III. Persons needing international protection would be exempt from the airport transit visa requirement;
- a Member State consulate would examine and decide on an application when this is considered necessary on humanitarian grounds, for reasons of national interest or because of international obligations under the 1951 Convention on Refugees' status, when the third-country national is not residing in its jurisdiction;
- persons seeking international protection would be able to apply for a European humanitarian visa directly at any Member State consulate or embassy. Granting such a humanitarian visa after an assessment would allow the holder's entry in the Member State's territory issuing the visa only for the purpose of applying for international protection in that Member State;
- exempting recipients of a humanitarian visa with limited territorial scope of visa fees;
- exempting humanitarian visa holders from the standard '90 days in any 180 days' period of validity, for a period of 12 months, based on assessing the situation in the third-country national's country of origin or residence, and awarding special attention to the circumstances of persons requesting international protection;
- applications of Union citizens' close relatives and family members would be assessed taking into account the right to respect for private and family life set out in the European Union's Charter of Fundamental Rights . Refusals of applications by Union citizens' close

relatives and family members would be justified in a detailed way and in writing.

The Commission proposed to delete some cooperation arrangements between Member States. However, the LIBE Committee considers that the current optional forms of cooperation between them (co-location and Common Application Centres) should remain.

Trilogue meetings on the Visa Code (recast) took place on 12 May, 6 September, 11 October 2016 and 6 February 2017. The Council Visa Working Party examined the Visa Code (recast) on 24 October 2017.

On 7 March 2017 the Court of Justice of the European Union adopted its judgment on humanitarian visas in Case C-638/16 (PPU X and X v État belge), according to which Member States are not required, under EU law, to grant a humanitarian visa to persons who wish to enter their territory with a view to applying for asylum, but they remain free to do so on the basis of their national law.

The European Commission announced the visa policy package's withdrawal - Visa Code recast and Touring Visa - in its work programme 2018, in the context of a new revised visa code proposal foreseen for Q1 2018. On touring visas the Commission noted it would not table a revised proposal and continue dialogue with the co-legislators to possibly re-launch discussions.

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REGISTERED TRAVELLER PROGRAMME (2013 SMART BORDERS PACKAGE)

[ DERAILED]

>  2013 SMART BORDERS PACKAGE

CONTENT

In anticipation of increased traveller flows and in response to security concerns voiced by the EU Member States, the Barroso Commission presented a 'Smart Borders Package' in February 2013. The purpose of the package was to speed up, facilitate and reinforce border check procedures by using smart technologies. The package consisted of three legislative proposals:

- an Entry/Exit System (EES) intended to replace the current procedure of manually stamping the passports of third-country nationals when entering and exiting the Schengen area, allowing the automatic calculation of authorised stays and alert authorities of those who have overstayed;
- a Registered Traveller Programme, to give frequent third-country travellers the option of pre-screening, so that they would be able to use the automated border control systems like Member States' nationals;
- an amendment of the Schengen Borders Code to integrate the technical changes that result from the proposed systems.

The basic purpose of the RTP was to facilitate the crossing of EU external borders for visitors from third countries who travel frequently to the EU and who would be pre-vetted before arriving at the border. It would offset the delays resulting from collecting the data required for the proposed EES system.

During the first examination of the package the Council and the European Parliament voiced technical, operational and cost concerns, mainly related to the overall feasibility of the proposed new systems and of some of their features.

To respond to the criticism, the former Commission in 2014 initiated a two-step exercise, consisting of additional studies in combination with a pilot phase to assess the technical feasibility on some aspects of the projects. This started with a technical study on Smart Borders, which was completed in October 2014.

On 6 January 2015, the European Parliament Committee on Civil Liberties, Justice and Home Affairs presented a working document (rapporteur Tanja Fajon, S&D), which summarised some of the key issues that were considered to have remained unresolved following the presentation by the Commission of its Technical Study on Smart Borders and the Cost analysis. More specifically, the rapporteur pointed out that:

- the compatibility of the Smart Borders Package with basic data protection principles had still not been sufficiently demonstrated;
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ENTRY/EXIT SYSTEM (2013 SMART BORDERS PACKAGE)

[DERAILED]

> 2013 SMART BORDERS PACKAGE

EC

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SCHENGEN BORDERS CODE: USE OF THE ENTRY/EXIT SYSTEM (EES) AND THE REGISTERED TRAVELLER PROGRAMME (RTP) (2013 SMART BORDERS PACKAGE)

[DERAILED]

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EUROPEAN AGENDA ON MIGRATION

CONTENT

Migration Policy was high on the agenda of the Juncker Commission from the very start. With 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, the issue of migration has evolved to the most pressing priority, requiring urgent action at EU level. The Special meeting of the European Council on 23 April 2015 has confirmed the Member States' political commitment to a rapid response.

On 13 May 2015, the Commission put forward its European Agenda on Migration outlining both emergency actions and steps to be taken in the coming years. It combines internal policy tools with external relations initiatives.

The first part of the Agenda outlines immediate EU measures to prevent human tragedies and face the emergency situation, as well as to clamp down on smuggling networks.

The second part of the Agenda defines a new strategic approach to manage migration better in the medium and long term, building on four mutually reinforcing pillars:

- Reducing incentives for irregular migration;
- Saving lives and securing the EU external borders;
- Strengthening the European Common Asylum Policy;
- Defining a new policy on legal migration.

The intensification of the migration situation in Central and Eastern Mediterranean over the summer 2015 required further immediate and concerted action to be undertaken at EU level. Thus, since spring 2015, the Commission has worked for a swift and coordinated European response, with three implementing packages under the Agenda on Migration: on 27 May 2015, on 9 September 2015 and on 15 December 2015.

On 27 May 2015, the Commission presented the first package of proposals under the European Agenda on Migration which include the following measures:

- A Council decision establishing an emergency relocation scheme under Article 78(3) of the TFEU;
- A recommendation on a European Resettlement Scheme asking Member States to resettle 20 000 people from outside the EU, in

clear need of international protection;

- An EU action plan against migrant smuggling (2015-2020);
- Guidelines on the implementation of EU rules on the obligation to take fingerprints;
- A public consultation on the future of the Blue Card Directive;
- New Operational Plan for Operation Triton to reinforce and extend its search and rescue operations in the Mediterranean.

On the occasion of the Speech on the State of the Union of 9 September 2015, Commission President Juncker announced new urgency measures to respond to the intensification of the migration situation in Central and Eastern Mediterranean over the summer 2015, whilst the Commission submitted new medium- and long-term initiatives to implement the European Agenda on Migration.

The second package of proposals of 9 September 2015 comprises the following measures:

- An emergency relocation proposal for 120,000 asylum seekers from Greece, Hungary and Italy;
- A Permanent Relocation Mechanism for all Member States: the Commission proposes a structured solidarity mechanism;
- A common European list of Safe Countries of Origin;
- EU Action Plan on Return, as well as a common Return Handbook;
- Public Procurement rules for Refugee Support Measures;
- Addressing the external dimension of the refugee crisis;
- A Trust Fund for Africa, with €1.8 billion allocated from the EU-budget to address the root causes of irregular migration.

The extraordinary Justice and Home Affairs Council on 14 September 2015 adopted the Decision on the emergency relocation of 40,000 people in clear need of international protection from Italy and Greece.

Then, on 22 September 2015, the Justice and Home Affairs Ministers adopted the Decision to relocate 120,000 people in clear need of international protection from Italy and Greece and other Member States directly affected by the refugee crisis.

On 15 December 2015, the Commission presented a set of measures aimed at managing more effectively and securing EU external borders. It comprises the following measures:

- The creation of a European Border and Coast Guard to secure external borders: the proposal builds on Frontex and up-grades the mandate of the agency;
- The establishment of a European travel document for the return of illegally staying third-country nationals;
- A targeted revision of the Schengen Borders Code to ensure a systematic check of external borders: in response to the tragic attacks in Paris on 13 November 2015, the JHA Council had on 20 November 2015 underlined the need to reinforce security controls at the EU's external borders.

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IMMEDIATE ACTION

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- The establishment of a European travel document for the return of illegally staying third-country nationals;
- A targeted revision of the Schengen Borders Code to ensure a systematic check of external borders: in response to the tragic

attacks in Paris on 13 November 2015, the JHA Council had on 20 November 2015 underlined the need to reinforce security controls at the EU's external borders.

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LEGISLATIVE FILE(S) INCLUDED

-  1st EMERGENCY RELOCATION SCHEME
-  2nd EMERGENCY RELOCATION SCHEME
-  Additional financing to respond to the migration crisis
-  Urgency resettlement scheme
-  Emergency support mechanism for the refugee crisis

PREVENTING IRREGULAR MIGRATION

CONTENT

The EU's legal framework for irregular immigration is scattered over many legal instruments. Some apply at the point of a migrant's arrival at the border, others concern prevention of irregular immigration through cooperation with countries of origin and transit.




Weaknesses in the management of the EU external borders have led to uncontrolled inflows of irregular migrants in the EU. In order to strengthen the external borders, with a view to also contribute to enhancing internal security, the Commission proposed to revise the mandates of two agencies (Frontex and eu-LISA), reinforce the Schengen Borders Code and upgrade and expand the EU information systems in the area of freedom, security and justice, including by making these systems more interoperable. In March 2016, the Schengen Borders Code was amended to allow for the systematic checks of EU citizens at the EU external borders. Frontex was successfully turned into the European Border and Coast Guard Agency in October 2016. While the Entry/Exit System was adopted in November 2017, the other files on the EU information systems for borders and security are currently debated by co-legislators.

Cooperation with third countries has been covered under the Global Approach to Migration and Mobility (GAMM), through which the EU participates at forums, engages in political dialogue and establishes partnerships with third countries. In line with the 2015 'European Agenda on Migration' and the 2016 'Partnership Framework', the EU pursues external migration policies aiming at tackling challenges along the main migratory routes. The EU aims to provide more legal pathways for admission of people in need of international protection through resettlement measures and is trying to harmonise and support national efforts to better manage returns and to facilitate reintegration. For this it adopted Action plan on return to better ensure the effective implementation of the existing EU legislation on return (Return Directive).

As journey to the EU can be extremely dangerous and smugglers frequently expose migrants to both life-threatening risks and violence, the Commission also adopted an Action Plan against Migrant Smuggling that sets out clear measures to counter and prevent migrant smuggling, including revising smuggling legislation, destroying smuggler vessels and stepping up the seizure and recovery of criminal assets, whilst ensuring full respect for and protection of the human rights of migrants.

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LEGISLATIVE FILE(S) INCLUDED

-  Action plan against migrant smuggling
-  Revision of the Frontex regulation
-  Action plan on return

SECURING EXTERNAL BORDERS

CONTENT

As part of the European Agenda on Migration submitted on 13 May 2015, the European Commission committed to develop the necessary measures designed to secure the EU external borders and improve the internal security in the EU.

The Commission committed to submitting a new proposal replacing the Smart Borders Package, as well as to strengthening the role and capacity of Frontex in securing external borders.

Echoing the Parliament's and the European Council's requests, Commission President Juncker had announced in the State of the Union speech of 9 September 2015 that it would submit a proposal establishing European System of Border Guards.

Moreover, the re-introduction of temporary internal border controls in connection with the migration crisis has also put into question the proper functioning of the Schengen area of free movement and its benefits to European citizens and the European economy. Therefore, the Commission has also committed to take the necessary measures to safeguard the principle of free movement of persons, which is at the core of the European citizenship.

Considering the scope of the challenges, notably in relation with tragic terrorist attacks on European soil and the return of foreign fighters, enhancing the security of external borders and strengthening the tools available has come high on the agenda of the European Commission. Thus, the protection external borders has become an autonomous package within the overall priority of a new policy on migration.

To date, the Commission has taken two series of initiatives:

On 15 December 2015, the European Commission adopted an important set of measures to manage the EU's external borders and protect the Schengen area without internal borders. The proposals include:

- A European Border and Coast Guard to ensure strong and shared management of the external borders. A political agreement was reached on the issue end of June 2016, and the legislation is expected to be voted by the European Parliament on 6 July 2016.
- A targeted revision of the Schengen Borders Code: following the terrorist attacks in Paris on 13 November 2015, the purpose of the revision was to introduce, at the external borders of the EU, systematic checks against relevant databases for all people entering or exiting the Schengen area. The revision was adopted in March
- A uniform European travel document for return to facilitate the effective return of illegally staying third country nationals.


Then, on 6 April 2016, the Commission presented a package of proposals on Smart Borders, replacing a previous proposal put forward by the Barroso-Commission with a *Communication on Stronger and Smarter Information Systems for Borders and Security*. The package includes:


- The establishment of an Entry/Exit System (EES) to register entry and exit data, and refusal of entry data, of third country nationals crossing the external borders of the EU;
- A review of the Schengen Borders' Code to implement the EES.
- A Handbook for implementing and managing the European Border Surveillance System (EUROSUR).

As emphasised in the European Agendas on migration and on security, addressing current EU migration and security challenges requires improving the management of external borders, including by making better use of the opportunities offered by IT systems and technologies. In this regard, a proposals to revise the Schengen Borders Code as regards the reinforcement of checks against relevant databases at external borders was adopted in March 2016. The transformation of the Frontex into the European Border and Coast Guard Agency was finalised in October 2016 and the legal basis for the new Entry/Exit System was established in November 2017. Work is ongoing on the establishing of the new European travel information and authorisation system, revising and expanding of the Schengen Information System, upgrading the eu-LISA's mandate and setting up frameworks for the interoperability between EU information systems in the area of borders and security.

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LEGISLATIVE FILE(S) INCLUDED

 Targeted revision of the Schengen borders code (Anti-terrorism measures)


 ENTRY/EXIT SYSTEM (2016 SMART BORDERS PACKAGE)






Smarter information systems

 ADAPTING SCHENGEN BORDERS CODE TO ENTRY/EXIT SYSTEM (2016 SMART BORDERS PACKAGE)

 European border and coast guard agency

 European travel document for the return of illegal migrants

STRONG ASYLUM POLICY

CONTENT

Europe has a duty to protect people in need of international protection in accordance with the Geneva Convention. The EU has put in place a Common European Asylum System in 2013.

Yet, the 'Common European Asylum System' (CEAS) uneven implementation in Member States provides an incentive for asylum-seekers to apply for asylum in those Member States where it is most likely to be granted. Consequently, the majority of claims are granted in only a few of the 28 Member States.

On 6 April 2016, the Commission presented a communication entitled 'Towards a reform of the Common European Asylum System and enhancing legal avenues to Europe'.

On 4 May 2016, the Commission adopted the first package of proposals for CEAS reform with the following initiatives:

- Proposal for a regulation to reform the Dublin system;
- Proposal for a regulation to amend Eurodac;
- Proposal for a regulation to establish an EU Asylum Agency which is to replace the European Asylum Support Office (EASO).

On 13 July 2016, the Commission put forward the second package of proposals for CEAS reform. The package includes:

- A proposal for a new regulation to replace the Asylum Procedures Directive;
- A proposal for a new regulation to replace the Qualification Directive;
- Proposed targeted modifications of the Reception Conditions Directive;
- A proposal for a Union Resettlement Framework.

Almost two years after their introduction, the proposals have reached different stages of progress within the legislative process. The Parliament and the Council have already reached a political agreement on the proposal on the establishment of the European Union

Agency for Asylum and are close to confirm the reform of Eurodac. While trilogues are also progressing on the Union Resettlement Framework, the Qualifications Regulation and the Reception Conditions Directive, the co-legislators still have considerable work to do as regards the reform of the Dublin Regulation and the proposal for an Asylum Procedures Regulation. As stated in the Commission's contribution to the Leaders' Agenda of December 2017, a political agreement on the overall reform of the CEAS is expected by June 2018.

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LEGISLATIVE FILE(S) INCLUDED

-  JD - EU resettlement framework
-  Permanent EU relocation mechanism
-  EUROPEAN LIST OF SAFE COUNTRIES OF ORIGIN
-  JD - Revision of the Dublin regulation
-  JD - Strengthening the European Asylum Support Office (EASO)
-  Reform of the Common European Asylum System (CEAS)
-  JD - Recast Eurodac regulation
-  JD - Reform of the asylum procedures directive
-  JD - Reform of the qualification directive
-  JD - Reform of the reception conditions directive

NEW POLICY ON LEGAL MIGRATION

CONTENT

The EU's legal migration policy aims to establish a framework for legal migration that will help the EU to seize the opportunities and benefits brought by greater mobility.

In its April 2016 resolution on the situation in the Mediterranean and the need for a holistic EU approach to migration, Parliament

highlighted the need for safe and legal routes for refugees and highly skilled workers from abroad and third-country nationals' better integration.






The EU measures on legal immigration cover the conditions of entry and residence for certain categories of immigrants, such as highly qualified workers subject to the 'EU Blue Card Directive'. In June 2016 a proposal for Reforming the Blue Card Directive by offering more flexible admission conditions, improved admission procedures and enhanced rights was proposed by the Commission and is currently being debated by the European Parliament and the Council.

The Commission, in June 2016, also proposed An action plan to support Member States in third-country nationals' integration and their economic and social contribution to the EU. It focuses on a comprehensive framework supporting Member States' efforts in developing and strengthening their migrant integration policies, and describes the concrete policy, operational and financial measures to be implemented by the Commission. While targeting all third-country nationals in the EU, it contains actions to address the specific challenges faced by refugees. In particular, these include measures in the field of education, labour market and vocational training, access to basic services, active participation and social inclusion.

The Commission's 2015 work programme announced a fitness check of the 2003 directive on the status of third-country nationals who are long-term residents. The directive allows Member States to grant long-term resident status to third-country nationals, including beneficiaries of international protection, who have resided legally and continuously in a Member States for 5 years and who fulfil a set of other conditions, such as stable and regular resources. In 2011 the Commission also adopted a directive on a single application procedure for a single permit for third country nationals to reside and work in the territory of a Member State and a common set of rights for third-country workers legally residing in a Member State. The directive established a single application procedure and a single permit combining work and residence for third country workers. It provides for a set of common rights to be granted (e.g. equal treatment with nationals as regards working conditions, access to certain social security benefits). The REFIT evaluation of both the Long-Term Residents Directive (2003/109/EC) and the Single Permit Directive (2011/98/EU) was launched in September 2016 and is expected to be completed in the first quarter of 2018, with the adoption of a report on the fitness check.

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LEGISLATIVE FILE(S) INCLUDED

-  Integration of migrants
-  JD - Revision of the Blue Card directive
-  Safe and legal channels for migration
-  Status of long-term resident 3rd country nationals – possible review
-  Single Permit Directive – possible review

2013 SMART BORDERS PACKAGE

CONTENT

In anticipation of increased traveller flows and in response to security concerns voiced by the EU Member States, the Barroso-Commission had presented a 'Smart Borders Package' in February 2013.

The purpose of the package was to speed-up, facilitate and reinforce border check procedures by using smart technologies. The package consisted of three pieces of legislation:

1. an *Entry/Exit System* intended to replace the current procedure of manually stamping the passports of third-country nationals when entering and exiting the Schengen area, allowing the automatic calculation of authorised stays and alert authorities of those who have overstayed;
2. a *Registered Traveller Programme*, to give frequent third-country travellers the option of pre-screening, so that they would be able to use the automated border control systems like Member States' nationals;
3. an amendment of the *Schengen Borders Code* to integrate the technical changes that result from the proposed systems.

During the first examination of the package the Council and the European Parliament voiced technical, operational and cost concerns, mainly related to the overall feasibility of the proposed new systems and of some of their features.

To respond to the criticism, the former Commission in 2014 initiated a two-step exercise, consisting of additional studies in combination with a pilot phase to assess the technical feasibility on some aspects of the projects. Then, in a second phase, the results were tested by the Agency for the Operational Management of Large-Scale IT systems in the area of freedom, security and justice (EU-LISA).

On 13 May 2015, the Commission announced in its European Agenda on Migration a revision of the proposals included in the Smart Borders Package.

On 6 April 2016, the Commission put forward a new Smart Borders Package, building on the results of the two-step proof of concept exercise and a public consultation launched in 2015. At the same time, the Commission withdrew its 2013 proposal for a Registered Traveller Programme.

The package proposed in 2016 contains the following elements:

1. a revised proposal establishing an *Entry-Exit System*, which aims to speed-up and reinforce border check procedures for non-EU nationals travelling to the EU;

2. an amendment of the *Schengen Borders Code* to integrate the technical changes that result from the proposed Entry-Exit System;
3. a Communication on '*Stronger and Smarter Information Systems for Borders and Security*', which explores how information systems can become more effective and efficient in enhancing external border management and internal security in the EU.




On 29 June 2017, an agreement between the Maltese presidency and the European Parliament was reached on the political issues around the proposals for the EES and its use, the proposal for an Entry-Exit System and the proposal amending the Schengen Border Code in relation to the Entry-Exit System. Data retention was set at three years and exceptionally for five years when there is no exit data after the expiry of the authorised stay period. The institutions agreed on the law-enforcement access but not on the access of asylum authorities. The possibility of transferring data for law enforcement or return purposes to third countries and EU Member States not participating in the EES was retained under certain conditions.

On 30 November 2017, European Parliament President Antonio Tajani and Council President Matti Maasikas signed the legislative act during the European Parliament plenary session in Brussels.

The act was published in the Official Journal of the European Union on 9 December 2017. The system is due to become fully functional by 2020.

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LEGISLATIVE FILE(S) INCLUDED

-  REGISTERED TRAVELLER PROGRAMME (2013 SMART BORDERS PACKAGE)
-  ENTRY/EXIT SYSTEM (2013 SMART BORDERS PACKAGE)
-  AMENDING SCHENGEN BORDERS CODE TO SMART BORDERS (2013 SMART BORDERS PACKAGE)