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Rapport spécial n° 6/2017 de la Cour des comptes européenne. Réponse de l'UE à la crise des réfugiés: l'approche dite «des points d'accès» (décharge 2016)

Commission du contrôle budgétaire

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Introduction

Migration to Europe saw a sudden increase in the total number of arrivals, first in 2014 and even more so in 2015, when over 1 million people made the perilous journey across the Mediterranean to Europe. These migratory flows at the EU's external borders generally consisted of a mixture of asylum seekers and economic migrants. In addition, many were children and unaccompanied minors in need of particular attention and care.

Whereas in 2014, most migrants arrived through the 'Central Mediterranean route' (i.e. leaving northern Africa and arriving in Italy), this pattern changed during 2015, with a total of around 850 000 people coming through the 'Eastern Mediterranean route' (i.e. departing from Turkey and arriving in Greece). The prolonged crisis in Syria has been a major factor behind the increase in the arrivals from Turkey. The large inflow into Greece fell significantly from April 2016 onwards, while arrivals to Italy remained around the previous years' level, with total sea arrivals in Italy and Greece reaching some 350 000 people for the year 2016.

The Policy framework is articulated on three main components, namely the Common European Asylum System (dealing with the granting of asylum to people who are fleeing persecution or serious harm in their own country and are therefore in need of international protection¹), the European Agenda on Migration presented by the Commission in May 2015²) and the Hotspot approach, one of the key operational measures proposed in the Agenda for managing the large inflow of migrants and conceived as an immediate response to a major migratory crisis and implemented under very challenging and changing circumstances³.

Besides the aforementioned components of the policy framework, follow-up procedures were set up according to which non-EU nationals arriving irregularly should, following their registration and fingerprinting, then be channelled into one of three following processes:

- (i) the national asylum system of the country of arrival (if a migrant is applying for asylum and considered to be in need of international protection),
- (ii) the Emergency relocation scheme (a temporary mechanism aiming to redistribute people in clear need of international protection, so as to ensure fair burden-sharing among Member States and decrease the pressure on the frontline Member States)⁴, or

¹ Asylum is a fundamental right and granting it is an international obligation, stemming from the 1951 Geneva Convention relating to the status of refugees.

² The European Agenda on Migration sets out a comprehensive approach to migration management and comprises immediate action aimed at, for example, saving lives at sea, targeting criminal smuggling networks, and helping frontline Member States cope with the high numbers of arrivals, as well as longer-term measures, e.g. to secure Europe's external borders, reduce the incentives for irregular migration and design a new policy on legal migration.

³ A hotspot was defined as an area at the EU's external border that faces disproportionate migratory pressure. Most migrants enter the Union at these hotspots and, according to the Commission, this is where the EU needs to provide operational support through the European Asylum Support Office (EASO), Frontex and Europol working on the ground with Member States to swiftly identify, register and fingerprint incoming migrants.

⁴ This relocation scheme which is actually a temporary exemption from the Dublin mechanism aiming at relocating a total of around 106000 applicants in clear need of international protection from Greece and Italy to other Member States.

(iii) the return system (if a migrant does not ask for, or is considered not to be in need of international protection, and does not qualify for any other ground for admission).

Apart from various short-term measures proposed in the European Agenda on Migration, including the hotspot approach and the temporary relocation mechanism, the Agenda also included other, longer-term policy measures aimed at managing migration better, such as improved border management and measures aimed at addressing the root causes of irregular migration. Measures that were decided upon during the audited period were:

(i) The EU Emergency Trust Fund for Africa launched at the Valletta Summit on Migration on 12 November 2015 in Malta to help to address the root causes of destabilisation, displacement and irregular migration in countries of origin, transit and destination, by promoting economic and equal opportunities, security and development¹;

(ii) the EU-Turkey Statement on 18 March 2016, wherein the EU Member States and Turkey agreed on a series of measures to reduce or stop the flow of irregular migrants crossing from Turkey to the Greek islands;

(iii) A new European Border and Coast Guard Agency as a key element of the package of measures aimed at securing the EU's borders, managing migration more effectively, and improving the internal security of the EU combining the independent resources of this new Agency and the Member State authorities responsible for border management.

The funding framework for the establishment and functioning of the hotspots is provided from many different sources including the EU, the EU Agencies, national authorities, international organisations and NGOs.

EU funding, including support to the hotspots, is available for Greece and Italy through the respective allocations under the Asylum, Migration and Integration Fund (AMIF) and the Internal Security Fund (ISF), covering the period from 2014 to 2020. It is also available through the AMIF and ISF emergency assistance. In the case of Greece, the Emergency Support Instrument (ESI) is also available to address the humanitarian situation. Actions funded through the AMIF and ISF national allocations are co-financed by the recipient Member States, but emergency assistance may be funded 100 % from the EU budget.

The amounts disbursed at the time of the audit represent advance payments made to the Greek and Italian authorities and to the international organisations and EU agencies respectively.

For Greece, the Commission reported that over 352 mio euros were awarded in emergency funding (AMIF/ISF) since 2015, in addition to 192 mio euros in humanitarian support for the Greek mainland and almost 100 mio euros to support activities in the islands and hotspots.

¹ As of 31/12/2016, this trust fund approximately amounted 2,4 billion euros with additional funds from Member states and other donors of 152 million euros.

As regards Italy, the spending reported amounted 1,6 mio euros under AMIF and ISF in 2015, the data for 2016 at the time of the audit were not available. For the emergency assistance, Italy received 62,8 mio euros in 2016¹.

In addition, indirect funding is provided through the two main EU Agencies involved (Frontex and EASO). Frontex originally allocated 20 million euros from its 2016 budget for expenditure dedicated to hotspots but has in the meantime (until end November 2016) already committed almost 35 million euros for this purpose. EU funding granted to EASO in 2016 has increased from some 19.4 million euros to 63.5 million euros (including 26 million from the AMIF/ISF) in order to cover its support for the hotspot approach and the relocation scheme. Europol received an ISF emergency assistance grant of 1.5 million euros in 2016 with a view to deploying experts (Guest Officers) in the hotspots to conduct secondary security checks.

Audit scope and objectives

The Court assessed the implementation of the hotspot approach in Italy and Greece, covering the period from when it was first announced in the Agenda on Migration in May 2015 to the end of the summer of 2016. The Court specifically focussed on two main questions:

- were the necessary hotspots well located, established in a timely manner and with sufficient capacity to address the needs, with the provision of adequate support services, necessary coordination mechanisms and adequate monitoring procedures?;

- was the hotspot approach effective in managing the flow of incoming migrants, by enabling the full identification, registration and fingerprinting of migrants, and the timely channelling of migrants into the relevant follow-up processes (asylum, relocation, return)?.

The Court focused on the support provided by the Commission itself, Frontex, EASO and Europol but excluded Eurojust, as its involvement in the hotspots was more indirect and it had no presence in the hotspots. The Court also did not examine the processing of asylum applications or the relocation or return procedures. but the Court did refer to challenges in the implementation of the follow-up procedures.

The Court's research included desk review of available documentation, interviews with European Commission and Agency staff, representatives of the national authorities in Italy and Greece, international organisations and Non-Governmental Organisations (NGOs), and field visits to several hotspots (Pozzallo and Trapani in Italy, Lesbos, Chios and Leros in Greece) and the regional task forces in both countries. The Court took account of the fact that the recent crisis situation and the frequent changes in circumstances in the area of migration management have created a difficult and volatile environment for the Commission, Agencies and Member States to operate in.

European Court of Auditors' findings and observations

The EU Member States are primarily responsible for all aspects of border control and asylum processing. The Commission therefore introduced this new 'hotspot' approach in order to

¹ To be noted that no reports and detailed information on the utilisation of these emergency funds for hotspots were yet available for Greece and Italy.

assist Greece and Italy, the frontline Member States, in coping with the sudden dramatic increase in irregular migrants arriving at their external borders in 2015/2016. The aim of this approach was to provide operational support to Member States to ensure arriving migrants were identified, registered and fingerprinted, and channelled into the relevant follow-up procedures. Overall, the Court found that the hotspot approach has helped improve migration management in the two frontline Member States, under very challenging and constantly changing circumstances, by increasing their reception capacities, improving registration procedures, and by strengthening the coordination of support efforts.

However, the Court stated that the creation of hotspots was slower than planned: at the end of 2016 the reception facilities in both countries were not yet adequate to properly receive (Italy) or accommodate (Greece) the number of migrants arriving. There was still a shortage of adequate facilities to accommodate and process unaccompanied minors in line with international standards, both in the hotspots and at the next level of reception.

In Greece, four of the five planned hotspots (Lesbos, Chios, Samos, Leros and Kos) became gradually operational during the period up to March 2016, with the last one coming into operation by June 2016, the consequence being that the identification and registration of all migrants arriving was not fully guaranteed. In June 2016, Greek hotspots were operational with a reception capacity of 7450 people but remained insufficient and overcrowded for the ones located in Greek islands (Lesbos, Chios and Samos) as there are more migrants arriving in 2016 than migrants leaving the hotspots, resulting in critical living conditions in the camps especially for many unaccompanied minors (estimated at about 2,500 people in September 2016) as well as safety and security issues.

In Italy, four out of six planned hotspots (Lampedusa, Pozzalo, Trapani and Taranto) were operational in March 2016 with a total capacity of 1600 places¹, and two additional hotspots were still in the process of being set up but not yet operational at the end of February 2017 (Augusta and Porto Empedocle).

The Court stated that the support from the Commission and the relevant EU Agencies was substantial by providing experts, financial and technical resources, advice and coordination. However, the Agencies' capacity to provide such support was and remains very dependent on the resources offered by Member States namely experts deployed via Frontex and EASO². It was reported that the Frontex requests for direct support in the hotspots were covered at 65% by offers received from Member States and for EASO at 57% in average. The Court noted that the Commission's progress reports continued to call on Member States to increase their support for EASO in providing experts (only 41% asylum case workers have been deployed for by EASO in Greece compared to an estimated need of 100 experts and 33 asylum experts in Italy compared to the 74 estimated for 2016).

¹ The 1600 places are considered as insufficient to cover regular peaks in arrivals of 2000 or more per day and according to Italian authorities, 70% of migrants still disembarked outside the existing hotspots.

2. Frontex and EASO assist with identification, nationality screening, registration, fingerprinting and debriefing activities and provide cultural mediators. Frontex also helps with returns while EASO supports the provision of information on relocation and the processing of relocation applications in Italy and the registration and assessment of asylum applications in Greece. Both agencies Europol performs secondary security checks on cases flagged by the authorities of the host Member state, namely to identify movements of suspected terrorists and disrupt organised crime network involved in migrants smuggling.

In addition, the Court observed that the duration of expert deployments was often very short, (six weeks or sometimes less) thereby reducing the efficiency of the deployed experts. These shortcomings are currently being addressed through the new (or envisaged) mandates for the relevant Agencies.

In both countries, the Court found that the coordination of the hotspot approach was facilitated by the presence of dedicated Commission and Agency staff and, at the operational level, through regional task forces respectively based in Athens port of Piraeus and in Catania and, although the latter's role in the hotspot approach remains to be fully defined.

Standard operating procedures are a key element for clarifying responsibilities and harmonising procedures in hotspots, in particular where numerous different players are involved, as is the case for the current hotspot approach. The Court observed that the situations were different in both countries. Italy has established hotspot standard operating procedures and applies them both in the hotspots and in other disembarkation ports functioning as hotspots. In Greece, standard operating procedures remain a point of concern and their adoption is still pending.

The Court observed that the coordination at the individual hotspot level is still fragmented and although it has been established that the central authorities in the Member States are responsible for the overall management of the hotspots, at least in Greece, they have yet to take on this responsibility in full.

With regard to the monitoring and reporting by the Commission on the progress and problems at the hotspots, the Court noted that it has been regular and extensive through monthly reports since March 2016 including information on the implementation of the hotspot approach and respective roadmaps as well as recommendations for the stakeholders involved. However, the Court found that in the reporting framework certain information were lacking such as the absence of cost-benefit analysis, the establishment of a performance monitoring framework at the individual hotspot level to monitor the efficiency of operations, the use of resources and to identify best practices. The audit work also revealed that some information were not shared between different stakeholders like the length of time migrants spent in hotspots waiting to register and complete their asylum applications (for Greece) and some key data were not covered such as the total number of migrants identified and registered in hotspots or receiving a return order and numbers actually returned (Italy).

In both Greece and Italy, the hotspot approach has ensured that, in 2016, most of the incoming migrants were properly identified, registered and that their data were checked against relevant security databases. The Court reported that for Greece, these initial processes were achieved within three days, with a registration rate of 78% in 2016 compared to 8% in 2015. As regards Italy, the registration and fingerprinting phases significantly improved from 60% in 2015 to an average of 97% for 2016. In this respect, the hotspot approach contributed towards an improved management of the migration flows, notably by setting-up standard procedures.

Summary of the Commission's replies

The Commission considered that the report is providing a well-balanced analysis of one of the most challenging actions set out in the European Agenda on Migration to assist frontline Member States facing disproportionate migratory pressure. The Commission will continue

supporting Italy and Greece in the management of the migratory flows and will continue to closely cooperate with the EU Agencies to this end.

In this respect, the Commission accepted the recommendations of the Court aiming at further developing specific aspects of the hotspot approach.

European Court of Auditors' recommendations

In the light of its findings, the Court made a number of recommendations for the Commission to assist the Member States in improving the hotspot approach:

1 - Hotspot capacity

The Commission, together with the relevant Agencies, should provide further support to Greece in addressing the lack of capacity at the hotspots through:

- upgrading the accommodation facilities on the islands where hotspots are located;
- further speeding up the processing of asylum applications (with support from EASO), while providing clear information to migrants as to how and when their applications will be processed;
- enforcing existing return procedures, where appropriate (with support from Frontex).

The Commission, together with the relevant Agencies, should further support Italy's efforts to increase the number of hotspots, as originally planned, and to take further measures to extend the hotspot approach in order to cover also disembarkations outside the fixed hotspot locations.

2 - The treatment of unaccompanied minors

The Commission, together with the relevant Agencies and international organisations, should help the authorities in both Greece and Italy take all possible measures to ensure that unaccompanied minors arriving as migrants are treated in accordance with international standards, including adequate shelter, protection, access to and prioritisation of asylum procedures and possible consideration for relocation.

The Commission should insist on the appointment of a child protection officer for every hotspot/site.

The Commission and the relevant Agencies should further assist the responsible authorities through the provision of training and legal advice and continue to monitor the situation and report on action taken and progress achieved.

3 - Expert deployments

The Commission and the Agencies should continue to ask all Member States to provide more experts to cover current needs better.

Expert deployments by Member States should be long enough and in line with profiles requested to make the support provided by Frontex, EASO and Europol to Greece and Italy sufficiently efficient and effective.

4 - Roles and responsibilities in the hotspot approach

The Commission, together with the Agencies and the national authorities, should set out more clearly the role, structure and responsibilities of the EU Regional Task Force in the hotspot approach.

The Commission and the Agencies should continue to insist on the appointment, by Italy and Greece, of a single person to be in charge of the overall management and functioning of each individual hotspot area on a more permanent basis and on the establishment of hotspot standard operating procedures in Greece.

5 - Evaluation of hotspot approach

The Commission and the agencies should evaluate, by the end of 2017, the set-up and implementation of the hotspot approach to date and put forward suggestions for further development. These should include a standard model of support to be applied to future large-scale migratory movements, the definition of different roles and responsibilities, minimum infrastructure and human resource requirements, types of support to be provided, and standard operating procedures.

This analysis should also assess the need for further clarifications of the legal framework for the hotspot approach as part of the EU's external border management.

Recommandations du rapporteur en vue de leur intégration éventuelle dans le rapport annuel sur l'octroi de la décharge à la Commission

[Le Parlement européen]

1. se félicite du rapport spécial sur la réponse de l'UE à la crise des réfugiés: l'approche dite «des points d'accès», souscrit à ses recommandations et fait part de ses observations et de ses recommandations ci-après;
2. prend acte de la réponse de la Commission et de son engagement à soutenir les autorités grecques et italiennes; se félicite que la Commission accepte l'ensemble des recommandations de la Cour des comptes européenne afin de poursuivre le développement de certains aspects de l'approche dite «des points d'accès»;
3. déplore que la Cour des comptes, dans son rapport spécial, n'ait pas pu donner un aperçu plus large de la situation, notamment en ce qui concerne la relocalisation dans d'autres États membres, mais souligne que les goulets d'étranglement dans l'application des procédures représentent un défi constant pour le bon fonctionnement des points d'accès;
4. reconnaît l'importance de la mise en œuvre de l'agenda européen en matière de migration et souligne la nécessité de continuer à développer des mesures tant à

court terme qu'à long terme, de mieux gérer les frontières et de s'attaquer aux causes profondes de la migration illégale;

5. invite la Commission européenne, l'EASO, Europol, Frontex (eu égard à son nouveau mandat d'Agence européenne de garde-frontières et de garde-côtes), les autorités nationales et les autres organisations internationales à poursuivre et à accroître leur soutien aux points d'accès; constate que seule une coopération plus intense entre la Commission, les agences et les États membres peut, à long terme, garantir un développement plus efficace du concept des points d'accès;
6. souligne à cet égard, notamment dans le cas de l'Italie, que l'afflux incessant de migrants continue de poser d'énormes difficultés que l'Union et ses États membres doivent impérativement contribuer à résoudre;
7. souligne l'importance du Fonds «Asile, migration et intégration» (FAMI) et du Fonds pour la sécurité intérieure (FSI); demande que d'envisager la possibilité d'appliquer la réglementation financière de l'aide d'urgence au FAMI et au FSI; insiste sur le fait que la seule manière d'accroître l'efficacité des points d'accès en vue d'aider les États membres situés en première ligne consiste à augmenter les ressources financières pour améliorer et créer des infrastructures d'accueil et d'hébergement, qui sont essentielles pour faire face à l'arrivée massive de migrants;
8. se félicite des résultats de l'audit de la Cour sur la situation des mineurs migrants dans les points d'accès et souligne la nécessité de développer une approche intégrée de leur accueil, en veillant toujours à leur intérêt supérieur; préconise une meilleure utilisation des moyens financiers dévolus à l'accueil des mineurs et à la formation du personnel qui travaille aux côtés des personnes les plus vulnérables; rappelle qu'après la publication de ce rapport spécial, la Commission européenne a publié une communication totalement axée sur les migrants mineurs; souligne l'importance de cette communication et invite les États membres à mettre pleinement en œuvre les dispositions y figurant;
9. invite par conséquent la Commission et le Conseil à intensifier leurs efforts pour soutenir les points d'accès à travers une relocalisation plus efficace et, si les conditions d'admission ne sont pas réunies, les procédures de retour;
10. s'inquiète des signalements répétés de traite des enfants et demande que des mesures supplémentaires soient prises pour protéger les mineurs dès leur arrivée, en particulier lorsqu'ils ne sont pas accompagnés, car il est inacceptable que les trafiquants puissent continuer à menacer directement les enfants;
11. demande à Europol de poursuivre ses efforts visant à lutter contre la migration illégale, la traite des êtres humains et les organisations criminelles qui y participent et de soutenir les autorités nationales dans le traitement d'éventuelles enquêtes pénales sur la gestion des points d'accès;
12. salue les efforts déployés par les autorités nationales grecques et italiennes en

vue d'enregistrer le plus grand nombre possible de migrants dès leur arrivée sur leurs côtes, le taux d'enregistrement étant, en 2016, de 78 % en Grèce (contre 8 % en 2015) et de 97 % en Italie (contre 60 % en 2015); souligne qu'il est indispensable, pour créer un système d'accueil efficace, de disposer d'un aperçu précis de la situation dans le pays;

13. invite la Commission et le Conseil à garantir la qualité de l'examen des demandes d'asile dans les points d'accès; reconnaît les conditions difficiles dans lesquelles les demandes doivent être traitées, mais insiste pour que les procédures accélérées ne soient pas source d'erreurs; insiste par ailleurs pour que les États membres situés en première ligne ne soient chargés que de l'enregistrement et du relevé des empreintes de tous les migrants, mais que les procédures de suivi relèvent, dans un esprit de solidarité, de la responsabilité commune de l'ensemble des États membres; demande que les demandeurs d'asile soient correctement informés de la procédure de relocalisation en tant que telle, de leurs droits et des pays de destination possibles;
14. invite le Conseil à remédier sans plus tarder au manque persistant d'experts avec l'aide de l'EASO et des États membres; est convaincu, notamment dans le cas de l'Italie, qu'une aide supplémentaire s'avèrera également nécessaire à l'avenir, et invite la Commission et le Conseil à convenir d'un plan permettant à l'Italie et à la Grèce de disposer sur demande de cette capacité supplémentaire;
15. souligne que les points d'accès sont des lieux réservés à l'enregistrement des migrants et qu'ils ne doivent donc pas devenir surpeuplés ni se transformer en centres de détention; invite les États membres à poursuivre leurs efforts pour appliquer les mesures nécessaires en vue de se conformer pleinement à la Charte européenne des droits fondamentaux;
16. s'inquiète de la grande diversité d'acteurs qui participent actuellement à la mise en place et au fonctionnement des points d'accès et demande à la Commission et aux États membres de présenter des propositions visant à rendre la structure plus transparente et responsable;
17. recommande à la Cour d'envisager la possibilité de rédiger un bref rapport de suivi sur le fonctionnement des points d'accès pour donner un aperçu plus large de la situation, en incluant une analyse des procédures de suivi, autrement dit des procédures d'asile, de relocalisation et de retour.