



European Economic and Social Committee

REX/452
EU Action Plan against
migrant smuggling
(2015-2020)

Brussels, 10 December 2015

OPINION

of the

European Economic and Social Committee

on the

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions

EU Action Plan against migrant smuggling (2015-2020)

COM(2015) 285 final

Rapporteur: **Brenda King**

On 6 July 2015 the European Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

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

The Section for External Relations, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 12 November 2015.

At its 512th plenary session, held on 9-10 December 2015 (meeting of 10 December), the European Economic and Social Committee adopted the following opinion by 176 votes to 3 with 5 abstentions.

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1. **Conclusions and recommendations**

- 1.1 The European Economic and Social Committee (EESC) welcomes the stated aims of the EU Action Plan against migrant smuggling¹, namely "to counter and prevent migrant smuggling, while ensuring the protection of human rights of migrants" and "to address the root causes of irregular migration". The EESC recalls that the refugees benefit from a special status granted by the 1951 UN Convention relating to the Status of Refugees.
- 1.2 The EESC supports the Action Plan's efforts to disrupt organised criminal networks through intelligence-led and financial investigations, to put an end to money laundering and to confiscate the assets of illicit activities; however it strongly recommends that the plan adopts a more balanced and comprehensive approach by detailing how the EU will protect and assist those who are smuggled.
- 1.3 Building on the European Commission's communication statement that "smuggling networks can be weakened if fewer people seek their services", the EESC notes the UN Office on Drugs and Crime statement that it is "difficult, if not impossible, to secure a visa to the Schengen area nowadays for many people living in impoverished countries or zones affected by armed-conflict and political instability. Profit-seeking individuals and groups have taken advantage of this situation and developed profitable businesses to respond to the demand for border crossing"². The EESC therefore recommends that prevention measures be put in place

¹ COM(2015) 285 final.

² UN Office on Drugs and Crime (UNODC) representative, Ms Martina Hanke. Speech delivered during the EESC Public Hearing on Migrant smuggling, Brussels, 12 October 2015.

by heeding the request by the Secretary General of the UN to the EU "to consider increasing legal and safe pathways into Europe for [refugees and migrants], so that they are not left in the hands of criminal networks and embark on perilous journeys". These statements reflect the recommendation of numerous EESC opinions on migration.

- 1.4 The EESC agrees that the principle of solidarity and shared responsibility must be implemented to ensure a more balanced distribution of asylum applications between Member States. The Dublin Convention would need to be adapted to reflect this more inclusive system and to protect the Schengen Agreement.
- 1.5 The EESC therefore endorses the statement of the Commission President, Jean-Claude Juncker, who warned Member States against taking advantage of the migrant crisis to dismantle the Schengen agreement³. The EESC requests that the Commission follow these developments attentively and ensure a rapid return to normal.
- 1.6 The EESC also recommends that the European Asylum Support Office (EASO) should be given greater powers to carry out its work, in particular its operational support activities and joint asylum support teams in Member States that need special or emergency support. The EU must ensure that the Member States make more harmonised, coherent, independent and flexible use of humanitarian visas, as set out in the Common Visa Code.
- 1.7 The EESC welcomes the Commission's latest proposal to "address the external dimension of the refugee crisis"⁴, including the launch of the emergency trust fund for Africa. This latest proposal appears to recognise that addressing the root causes of migration is broader than home affairs and security but is linked to other policy fields such as trade, development, foreign policy, integration. This is in line with the principle of policy coherence of the EU international development cooperation.
- 1.8 The EESC recommends that in order to address the root socio-economic causes of migrant smuggling, the Sustainable Development Agenda should be used as a long-term solution. The EESC wants to remind EU Member States of their commitment to assign 0.7% of gross national income (GNI) to development aid. In many cases this commitment has not been achieved, with some Member States reducing their official development assistance.
- 1.9 Given Europe's challenges with sluggish growth, an aging and declining population as well as labour shortages it is also important to link EU migration policies with labour migration and integration policies as part of the European labour market, in light of ample evidence of migration as a vital factor of economic recovery and development in Europe.

3 http://ec.europa.eu/commission/2014-2019/president/announcements/call-collective-courage_en.

4 Refugee Crisis: European Commission takes decisive action – Strasbourg 9 September 2015.

- 1.10 The EESC agrees that the returns policy within the EU needs to be improved and reminds the Commission of its numerous recommendations that the human rights of asylum seekers should be respected at all times.
- 1.11 This opinion calls on the representatives of the Community institutions and national governments to take account of the key role of the social partners and organised civil society in providing European migration policies with a social dimension and added value.
- 1.12 The EESC also requests that more attention is paid to the systematic funding of civil society organisations that are providing critical assistance to migrants along their route to safety as well as in integration efforts, which often compensate for the lack of institutional capacities. The EESC welcomes the approach where civil society organisations will be recognised for their role in understanding the issue of migrant smuggling and their role as intermediaries in assisting people in situations that neither national states nor the EU can reach.

2. Context

- 2.1 The European Agenda on Migration⁵, adopted on 13 May 2015, outlines the immediate measures to be taken by the Commission to respond to the crisis situation in the Mediterranean and identifies the fight against migrant smuggling as a priority "to prevent the exploitation of migrants by criminal networks and reduce incentives to irregular migration".
- 2.2 Since the adoption of this agenda, the rapidly changing situation with large numbers of arrivals of asylum seekers has created an exceptional situation, resulting in the European Commission taking decisive action releasing a comprehensive package of proposals, on 9 September 2015, to address the refugee crisis.
- 2.3 The reason for the Commission's proposal⁶ is because the migratory situation in the Central and Eastern Mediterranean has intensified. According to Frontex, from 1 January to 30 August 2015, the Central and Eastern Mediterranean routes and Western Balkans route are the main areas for irregular border crossings into the EU representing 99% of the total EU irregular border crossings. Frontex also reveals that the Western Balkans route accounts for more than 30% of the total irregular border crossings in 2015. This represents a flow of asylum seekers of approximately 500 000 placing intense pressure on EU border states⁷. The majority of those arriving via the Central Mediterranean route include migrants from Syria and Eritrea, who according to Eurostat data have an asylum recognition rate of over 75%. Similarly, the majority of those migrants arriving via the Eastern Mediterranean and Western Balkans route originate from Syria and Afghanistan. This is in line with UNODC's statement

⁵ [COM\(2015\) 240 final](#).

⁶ [COM\(2015\) 451 final](#).

⁷ [COM\(2015\) 451 final](#).

that over 80% of persons who arrived in Europe by sea this year are from the worlds' top ten refugee-producing countries⁸.

- 2.4 According to the UN High Commissioner for Refugees (UNHCR) there are 4 185 302 registered Syrian refugees as of 4 October 2015. This figure includes 2.1 million Syrians registered by Egypt, Iraq, Jordan and Lebanon, 1.9 million Syrians registered by the Government of Turkey, as well as more than 26 700 Syrian refugees registered in North Africa⁹.
- 2.5 As the Syrian conflict approaches its 5th year, a UNHCR study shows a rapid deterioration in living conditions of Syrian refugees in Jordan with large numbers sliding into abject poverty due to the magnitude of the crisis and insufficient support from the international community with only 37% of the UNHCR's Syria appeal funded. The UNHCR states that until there is enough money to shore up the infrastructures of host (EU neighbouring) countries and improve the lives and prospects of their refugee populations, people are going to continue to leave and head for Europe. While the vast majority of refugees are too poor to move out of refugee camps, those who can are seeking the services of smugglers.
- 2.6 The Commission's proposal for Council Decision dated 9 September 2015¹⁰ states that it will continue to monitor developments in migratory flows, including the situation in the East of Ukraine should it deteriorate further.
- 2.7 This exceptional refugee crisis is occurring while the economic situation in the EU is having an impact on the capacity and readiness of some Member States, especially the border states, to provide humanitarian services, in accordance with the Geneva Convention¹¹. Austerity measures have also hit civil society organisations that provide services to asylum-seekers. Some Member States have responded by tightening border controls while others have brought in laws to detain and penalise those crossing the Schengen borders to seek asylum.

3. General comments

- 3.1 The EESC wants to reinforce its message, to all decision-making bodies, for the EU to act as a real Union by adopting, respecting and applying common rules. The new phase of European immigration policy should adopt a strategic approach, with a medium and long-term vision, and should focus on finding a holistic and comprehensive way of providing legal, open and

⁸ UN Office on Drugs and Crime (UNODC) representative, Ms. Martina Hanke. Speech delivered during the EESC Public Hearing on Migrant smuggling, Brussels 12 October 2015.

⁹ <http://data.unhcr.org>.

¹⁰ Press release "Refugee Crisis: European Commission takes decisive action" (http://europa.eu/rapid/press-release_IP-15-5596_en.htm).

¹¹ <http://www.unhcr.org/>.

flexible channels for admission to the EU¹². With regard to the current crisis this will require a common approach to external border management while empowering the Commission and European agencies to undertake operational tasks with the appropriate level of funding.

- 3.2 The EESC wishes to contribute by making strategic proposals based on its previous opinions on migration-related matters¹³. The **social partners and representatives of organised civil society and social dialogue** should be involved throughout the discussion process leading to the next phase of the **European migration policy**. The **"social dimension" is the key** to ensuring the added value, proportionality and impact of these policies.
- 3.3 The EESC requests that account should be taken in this regard of **the demographic situation and the ageing of the population and the labour markets** in the Member States. In its 2011 exploratory opinion¹⁴ on the **role of immigration in the demographic situation in Europe**, the EESC stressed that immigration by workers from non-EU countries and their families should be increased. The EU needs an **open and flexible form of legislation** that allows work-related immigration through channels that are legal and transparent, not only for highly-skilled workers and workers with mid-level skills, but also for those working in less skilled jobs as long as Member States remain free to determine their volumes of admission. At the same time, it is acknowledged that immigration is not the only response to labour market shortages and Member States may consider other more appropriate solutions.
- 3.4 The EESC strongly recommends the revision of the Dublin Regulation, as the European Court of Justice and the European Court of Human Rights have pointed out there is an inherent weakness with this Regulation. By tying the responsibility of examining the refugee status to the initial entry EU border states have become overburdened.
- 3.5 The EESC is very concerned about the current undermining of the Schengen agreement as it is one of the fundamental achievements benefitting EU citizens. It regrets the decision of those Member States that have reintroduced or plan to reintroduce border checks within the Schengen area and requests that the Commission follow these developments attentively and ensure a rapid return to normal.
- 3.6 The Communication states that the Action Plan should be seen in the broader context of the EU efforts to address the root causes of irregular migration and then discusses in the next sentence the operation to identify, capture and dispose of vessels used by smugglers. The EESC strongly disagrees that the access to a vessel is a root cause of irregular migration. On

12 EESC exploratory opinion on European immigration policies, rapporteur-general: Giuseppe Iuliano ([OJ C 458, 19.12.2014, p. 7-13](#)).

13 EESC, "Immigration: Integration and Fundamental Rights", 2012 (<http://www.eesc.europa.eu/resources/docs/qe-30-12-822-en-c.pdf>).

14 EESC exploratory opinion on The role of legal immigration in the context of demographic challenges, rapporteur: Luis Miguel Pariza Castaños ([OJ C 48, 15.2.2011, p. 6-13](#)).

the contrary, strict focus on vessel confiscation only exacerbates the risks for smuggled migrants as smugglers use the cheapest and most dangerous vessels.

- 3.7 The EESC recommends that the inefficiencies of development aid policies for the migrants' countries of origin need to be addressed and EU Member States need to re-commit to the promised 0.7% of gross national income to development aid. In addition, the EU should ensure that other relevant policies, such as international trade, agriculture, energy and foreign policy, have positive effects on social and economic stability and development of countries of origin, in line with the principle of policy coherence of the EU international development cooperation.
- 3.8 The EESC recognises that aid from EU Member States and EU assistance can reach its goals only in a safe and secure society without wars and major security problems. It is therefore important that the international community implements the Sustainable Development Goals, adopted by world leaders at the UN summit in September 2015. These goals range from ending poverty, empowering all girls and women, reducing inequality within and between countries, promoting sustained, inclusive and sustainable growth and decent work for all as well as to **promoting peaceful and inclusive societies**.

4. **Specific comments**

- 4.1 The EESC welcomes the stated aims of the Commission's Communication on the EU Action Plan against migrant smuggling but strongly recommends that this plan adopts a more balanced and comprehensive approach if it is to achieve these aims. The EESC notes no details are provided on how the EU will protect and assist those who are smuggled and no specific reference is made to the positive role of migration on the European labour market and economic development.
- 4.2 The EESC notes that while there is a distinction made between *migrant smuggling* and trafficking in human beings, no distinction is made between migrants and asylum seekers. This is important, as the UN Secretary-General reminded European decision-makers "A large majority of people undertaking these arduous and dangerous journeys are refugees fleeing from places such as Syria, Iraq and Afghanistan. International law has stipulated – and States have long recognised – the right of refugees to protection and asylum. When considering asylum requests, States cannot make distinctions based on religion or other identity – nor can they force people to return to places from which they have fled if there is a well-founded fear of persecution or attack. This is not only a matter of international law; it is also our duty as human beings". He continued, "I appeal to all governments involved to provide comprehensive responses, expand safe and legal channels of migration and act with humanity, compassion and in accordance with their international obligations"¹⁵. The EESC recommends that all people making the perilous journey to Europe should be treated as refugees in

15 [Statement](#), New York, 28 August 2015.

accordance with the 1951 Geneva Convention and its 1967 Protocol, until they are proven otherwise.

4.3 ***Enhanced police and judicial response***

4.3.1 The EESC recommends that a more comprehensive approach to combat smuggling will be to provide asylum seekers with access to safe and legal channels of migration. This approach combined with disrupting organised criminal networks through intelligence-led and financial investigations, will be a more effective, humane and cost-effective measure.

4.3.2 The EESC strongly recommends that EU decision makers ensure that they "do no harm" and consider both the intended and unintended consequences of their interventions. The EU's decision to switch from Mare Nostrum (focused on search and rescue) to Triton (focused on border control) has not reduced the number of people embarking on dangerous journeys to reach Europe. However, this decision has contributed to a dramatic increase in the number of lives lost in the Mediterranean. As of 31 May 2015, 1 865 people had died attempting the Mediterranean crossing, compared to 425 during the same period in 2014¹⁶. This also explains the shift in migration flows travelling by land across the western Balkans towards Hungary. Those interviewed on both sides of the Hungarian border said they had chosen the Balkans route because it was less expensive and had been recommended by smugglers.

4.3.3 The EESC notes the smugglers are able to adapt to EU policy decisions such as strengthening border patrols on the Mediterranean Sea and destroying vessels. The unintended result of the EU's "war on smugglers" approach has been chaos at EU borders, people dying on Europe's roads as well as at sea and tensions between EU Member States.

4.4 ***Enhanced prevention of smuggling and assistance to vulnerable migrants***

4.4.1 The EESC agrees that the Commission needs to enhance the prevention of smuggling and assist vulnerable migrants; however this needs to be done in a coherent manner where saving lives is the top priority.

4.4.2 Frontex data reveals that 70% of those using smugglers to cross EU borders are Syrian, Eritrean and Iraqi. These nationalities have an EU asylum recognition rate, based on Eurostat data, equal to or higher than 75%. Given that these individuals and families are fleeing due to *fear of persecution or attack*, any media campaign on the risks of smuggling is futile.

4.4.3 The EESC reminds the Commission that instruments already exist to take action against the employment of irregular migrants at national level. The Commission's proposal to use limited resources to target specific economic sectors at the EU level will be costly and ineffective.

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International Organization for Migration data (available at: <http://missingmigrants.iom.int/incidents>). "Migration Read All About It, Mediterranean Update: 101 900 migrant arrivals in Europe in 2015" (available at: <http://weblog.iom.int/mediterranean-flash-report-0>) (both accessed on 10 June 2015).

- 4.4.4 The EESC welcomes the statement in the action plan "to provide smuggled migrants, in particular vulnerable groups such as children and women, with assistance and protection." However the EESC notes that beyond this statement the Action Plan has not stated exactly what it will do. This is important as large numbers of those seeking protection in Europe are unaccompanied and separated children. In Italy, Hungary and Malta, some 19 000 unaccompanied and separated children have arrived during the first nine months of 2015. Some EU border states do not fully conform with international standards with poor reception conditions, poor status determination procedures, low recognition rates, as well as lack of access to durable solutions with regards to sanitation and housing. The action plan needs to state exactly how it will assist Member States with the necessary resources to meet their obligations and responsibilities under international humanitarian law and international human rights law and in particular in line with the UN Convention on the Rights of the Child¹⁷.
- 4.4.5 The EESC believes that the most effective way to provide assistance while weakening smuggling networks is to limit those seeking their services by providing alternative, legal means to travel to Europe from third countries in Europe's neighbourhood regions. This way the fundamental rights as provided for in the EU Charter of Fundamental Rights will be safeguarded.
- 4.4.6 The EESC reiterates that it is critical to distinguish profit-oriented smuggling from those assisting migrants. Thousands of European citizens have provided them with transport and refuge, either at no, regular or reduced cost. Humanitarian assistance and solidarity should be encouraged and not penalised within the scope of the EU's agenda against migrant smuggling.
- 4.4.7 The EESC agrees that the effectiveness of the EU return policy needs to be improved and takes this opportunity to remind the Commission of its numerous recommendations that the human rights of asylum seekers should be respected at all times, from their rescue or reception, while their applications are being assessed to whether the individual requires protection status or is in an irregular situation. The repatriation of migrants must be in accordance with the established rules that ensure that no one may be removed, expelled or extradited to a country where there is a serious risk that they would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment – the *non-refoulement* principle. The EESC reiterates its opposition to returning unaccompanied minors, individuals in need of medical care, and pregnant women.

4.5 ***Stronger cooperation with third countries***

- 4.5.1 The EESC strongly supports close cooperation with third countries along the entire smuggling route. While the Committee agrees that the focus should be on the support of border management, it also believes it is in this area that EU cooperation and coordination between

17 <http://www.ohchr.org/Documents/ProfessionalInterest/crc.pdf>.

the existing Network of Immigration Liaison Officers, European migration officers and Member States' diplomatic representatives should be a key priority.

- 4.5.2 The aim of this coordination should be for the EU institutions – EC, European External Action Service (EEAS) and Member States – to put agreed processes in place to allow people to apply for humanitarian visas and asylum from their home countries, or a safe neighbouring country, providing an alternative, humane and legal route to travel to Europe. Hotspots could be created in neighbouring countries such as Turkey, Lebanon, Jordan and Libya where people could be assessed and those who meet the EU asylum recognition rate can be given a humanitarian visa as is currently the case in Brazil. It is also important to foster dialogue and engage civil society organisations that are in direct contact with refugees in these actions, in order to ensure both the protection of human rights and greater efficiency of the processing of applications.
- 4.5.3 These humanitarian visas have the advantage of reducing the pressure on EU border states, ensuring that applicants for asylum are treated in accordance with EU fundamental rights and the UN Convention on the Rights of the Child, and transforming migrant smuggling into a high-risk, low profit operation. The right to remain could be temporary based on whether it is safe to return to the country of origin or linked to the labour market, given the skill shortages and demographic challenges impacting on growth in Europe.

Brussels, 10 December 2015.

The President
of the
European Economic and Social Committee

Georges Dassis
