



EUROPEAN COMMISSION

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Dear President,

The European Commission and the High Representative of the European Union for Foreign Affairs and Security Policy would like to thank the Camera Deputaților for its Opinion of 19 April 2017 concerning migration management issues on the Central Mediterranean route {JOIN(2017) 4}.

The European Union pursues a holistic, comprehensive and balanced approach to migration. Under the Partnership Framework published in June 2016 and the Valletta Action Plan of November 2015, considerable efforts have been made to step up cooperation with key third countries of origin and transit. The European Union also stands behind the United Nations New York Declaration for Refugees and Migrants of 19 September 2016 and is closely engaged in the process of the two global compacts to be concluded by 2018, as a basis for a multilateral regime for international migration.

The Union has enhanced its efforts on the Central Mediterranean route, in particular, in line with the Joint Communication of 25 January 2017 and with the Malta Declaration adopted by the Heads of State or Government at their informal meeting on 3 February 2017. Activities undertaken include stepped-up cooperation with Libyan authorities, with Libya's neighbours and international organisations in order to protect migrants, save lives and foster border management.

We share the Camera Deputaților's view that countering smuggling and trafficking in human beings must remain a central aspect of the Union's comprehensive strategy on migration. This imperative has been taken into account in the context of the Strategic Review of EUNAVFORMED Operation Sophia, which has extended the mandate of the Operation until 31 December 2018. I. The Action Plan against migrant smuggling entails enhancing capacity and operational cooperation between law enforcement and judiciary authorities of Member States and of countries of origin and transit in order to effectively investigate and prosecute migrant smuggling networks.

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To this end, in February 2016, Europol launched the European Migrant Smuggling Centre, and the Policy Cycle for organised and serious international crime was stepped up. Niger is emblematic of what can be achieved under the Partnership Framework: the European Union and Member States have closely coordinated their actions and cooperation, together with Nigerien authorities. Border controls and action against trafficking in human beings have been stepped up leading to the arrest of smugglers and a significant increase in Assisted Voluntary Returns of migrants from Niger to countries of origin.

At least 4 579 people died attempting to cross the Mediterranean from Libya in 2016. It is estimated that 700 were children. Unaccompanied minors are ever more exposed to the risk of exploitation and trafficking. A Communication on the protection of children in migration was adopted on 12 April 2017¹, setting up a list of actions and recommendations to Member States in order to address the urgent needs of all migrant children at all stages of the migration journey.

As regards the Camera Deputaţilor's suggestion that Member States create a database on unaccompanied minors, the Commission agrees that migrant children should be swiftly identified and registered when they arrive in the European Union. To that end, in its new proposal for Eurodac², the Commission has proposed to lower the age at which the fingerprints of minors are taken from 14 to 6 years old.

In addition, efforts are also ongoing in order to improve data collection and visibility concerning children in migration. In this context, the European Commission's Knowledge Centre on Migration and Demography has introduced in the Dynamic Data Hub³, a repository on children in migration, which will be further populated with data.

The Commission and the High Representative acknowledge the concerns expressed by the Camera Deputaţilor regarding political instability in Libya. While an effective management of migration flows on the Central Mediterranean route is dependent on the return of security and political stability to Libya, the European Union has increased its efforts, in line with the Malta Declaration, notably via capacity-building of the Libyan authorities and by stepping up dialogue with Libya's southern neighbours as well as assisting and protecting migrants inside Libya. In April 2017, a major EUR 90 million programme for Libya was approved under the North Africa window of the Trust Fund for Africa. The overall aim of this programme is to reinforce protection and resilience of migrants, refugees and host communities in Libya while supporting improved capacities for migration management along the migration routes in the country. Through this programme, the Commission will support the voluntary humanitarian return of migrants, and reintegration assistance. Under the current political and security conditions in Libya, it is not possible to envisage any direct management by the European Union of reception, registration and accommodation facilities there. A further programme under the Trust Fund of EUR 46 million on integrated

¹ COM(2017) 211 final.

² COM(2016) 272 final

³ <https://bluehub.jrc.ec.europa.eu/migration/app/index.html>

border and migration management in Libya, with a particular focus on supporting the Libyan border and coast guards, including in southern Libya, was approved at the end of July.

As a safe alternative to irregular migration, we are promoting the use of resettlement and other legal pathways for migrants, which, together with targeted awareness information campaigns, can be an effective way to dismantle and fight smugglers. The Commission's approach, in line with the European Agenda on Migration, aims to reduce the incentives for irregular migration while creating a strong common asylum policy and promoting legal migration, notably for workers, family members or students.

The full and correct implementation of Union law on migration and asylum is a central element of the European Agenda on Migration. The Commission, entrusted by the Treaties with the task of ensuring its full and correct application, will not hesitate to use its powers under the Treaty, including if necessary the launch of infringement procedures under Article 258 of the Treaty on the Functioning of the European Union. In particular with regard to relocation, the Commission has repeatedly reminded Member States of their legal obligations under the Council Decisions and called on those Member States that have yet to pledge and relocate from Greece and from Italy, to do so immediately. Regrettably, despite these repeated calls, three Member States have yet to take the necessary action, which is why the Commission has decided to launch infringement procedures against them.

In general, the Commission considers relocation as an effective burden sharing solidarity tool. Despite the slow pace of implementation, the emergency relocation scheme adopted in September 2015 proves to be an effective tool to alleviate disproportionate pressure on the asylum systems of particular Member States. Regarding the possibility of anchoring a corrective relocation mechanism in the Dublin Regulation, the aim is to create an effective and fair system with clear rules, if necessary complemented by operational and financial support by European Union Agencies. This mechanism will ensure fair burden sharing among Member States and swift access to procedures for granting international protection, thus also securing the functioning of Schengen.

While different circumstances could require different levels of contributions, the contributions of all Member States must encompass compulsory relocation measures to ensure solidarity with the frontline Member States. Otherwise the countries of first entry will be overburdened by de facto becoming responsible for the vast majority of asylum applicants and refugees in the European Union.

The Commission recalls that the primacy of Union law over national law is a fundamental principle of the European legal order, reflecting that Union law is adopted according to the legislative procedures foreseen in the Treaties and jointly agreed by the European Parliament and the Council. In conformity with this principle, Member States may not apply a national rule which contradicts Union law and must bring national legislation in line with Union law.

Negotiations of tailor-made readmission agreements with neighbouring countries are under way. While the Commission remains committed to the EU-Turkey Statement and the full and non-discriminatory implementation of all its aspects, it recalls that the Union's response to migration management is case-specific.

The Commission shares the Camera Deputaţilor's view that, in the context of forced displacement, operationalising the humanitarian and development nexus often lags behind. It therefore welcomes the Foreign Affairs (Development) Council Conclusions on Operationalising the Humanitarian and Development Nexus adopted on 19 May 2017, drawing on existing policy frameworks and calling for strengthened coordination.

The Commission and the High Representative hope that these clarifications address the issues raised by the Camera Deputaţilor and look forward to continuing our political dialogue in the future.

Yours faithfully,

*Frans Timmermans
First Vice-President*

*Federica Mogherini
High Representative/Vice-President*