



EUROPEAN COMMISSION

Brussels, 04.03.2016
C(2016) 1379 final

Dear Chair,

The Commission would like to thank the House of Lords for its *Opinion on the EU Action Plan against migrant smuggling (2015-2020) {COM(2015) 285 final}*.

The Commission welcomes the House of Lords' support for the EU's comprehensive response to the migration and refugees crisis, which brings together policies on migration, security and external affairs. The Commission shares the view that action to address migrant smuggling should be seen in the broader context of EU efforts to address the root causes of irregular migration, in cooperation with countries of origin and transit, and to provide protection to those that need it.

The Commission also shares the House of Lords' view that it is important to coordinate with Member States when carrying out joint operations at regional or European level aiming to dismantle the organised crime groups involved in the smuggling of migrants. It further appreciates the House of Lords' support for the measures envisaged under the Action Plan to ensure greater coordination and cooperation between the EU Agencies whose work is relevant for preventing and countering migrant smuggling. The EU Agencies have a key role in implementing the actions foreseen in the Action Plan. Since the EU Action Plan on migrant smuggling was adopted, the Commission has established a Contact Group of EU Agencies on migrant smuggling, which serves as a forum to strengthen operational cooperation and information exchange between the relevant EU Agencies.

In response to the more specific comments in the Opinion, the Commission would like to refer to the attached annex.

The Commission hopes that the clarifications provided in this reply address the issues raised by the House of Lords and looks forward to continuing the political dialogue in the future.

Yours faithfully,

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First Vice-President

Dimitris Avramopoulos
Member of the Commission

The Lord Boswell of Aynho
Chair of the European Union Select Committee
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ANNEX

The Commission welcomes the Opinion from the House of Lords on the EU Action plan against migrant smuggling (2015-2020) {COM(2015) 285 final}. The Commission has carefully considered the issues raised in this Opinion and would like to make the following observations.

Point 2: *The Commission takes note of the observation that those currently entering the EU as irregular migrants should be referred to as refugees. The Commission's view is that the current mixed migration flow (which include refugees as well as economic migrants) to Europe is of such a nature that referring to irregular migrants as 'refugees' would be inaccurate. It is in this vein that the Action Plan refers to those smuggled as migrants, which consequently includes refugees.*

Points 9, 13, 22: *The Commission shares the House of Lords' view that protection of vulnerable migrants should be given equal priority to law enforcement and that safe and legal routes should be made available to enter the EU. The Commission made proposals, last year, recommending that Member States should enable people in need of international protection to be brought to the EU safely. The setting up of Regional Development and Protection Programmes (RDPPs), which aim at assisting countries hosting large numbers of refugees and asylum seekers, is also crucial in catering for the needs of refugees as well as building capacities in host countries.*

Furthermore, the Commission welcomes the House of Lords' support with regards to the evaluation and possible revision of Directive 2004/81/EC on residence permits issued to victims of trafficking in human beings and to smuggled migrants cooperating with authorities.

Point 15, 16: *The Commission welcomes the House of Lords' view on the revision of the EU legal framework on migrant smuggling ('Facilitator's Package'). In the process of evaluating the current legal framework and devising legislative proposals to revise it, the Commission is taking into account the need to fully reflect the spirit of the UN Protocol on migrant smuggling. This includes careful consideration on whether to extend the element of financial gain or material benefit to the definition of all forms of smuggling. Regarding the exemption of liability for humanitarian assistance, the Commission's objective is to strengthen the legal protection granted to individuals and organisations engaged in benevolent and philanthropic actions. The Commission is also exploring the inclusion of an aggravating circumstance based on the occurrence of inhuman or degrading treatment in its proposal.*

Point 17, 18, 19: *The Commission shares the House of Lords' view that comprehensive and up-to-date information on smuggling routes and modi operandi used by smugglers is crucial for a robust understanding of the migrant smuggling phenomenon. Therefore, the Action Plan stresses the need to scale up the collection and sharing of information on migrant smuggling, as well as research into the links between migrant smuggling and other crimes. In this context, the Commission recently commissioned a study on 'Smuggling of Migrants – Characteristics, responses and cooperation with third Countries',¹ which contributes to a better understanding of this complex crime. The study maps and analyses policies, programmes and operational responses implemented by selected Member States and third countries aimed to fight against, reduce and prevent migrant smuggling to the EU.*

The setting up by Europol of a European Migrant Smuggling Centre, to be fully operational in 2016, will help create a hub for sharing information on migrant smuggling in the EU.

Point 21: *The Commission agrees that support – including funding, where appropriate – should be provided to Member States to help ensure migrants' safety and the respect of their rights. The EU Asylum, Migration and Integration Fund (AMIF), which was set up to promote the efficient management of migration flows and the implementation, strengthening and development of a common Union approach to asylum and immigration, regulates specifically when emergency assistance can be activated² (Article 21 of the AMIF regulation). For example, the Commission allocated emergency assistance funding to France in August to set up a site offering humanitarian assistance to around 1,500 irregular migrants and to support the transport of asylum seekers from Calais to other locations in France.*

Point 27: *The Commission takes note of the House of Lords' observation that the planned evaluation of the EU Return Directive³ should be brought forward to a maximum of six months after any changes to Frontex' mandate come into effect, rather than by 2017. The Commission will remain vigilant and open as to the need to anticipate the planned evaluation of the Return Directive, also taking into account that it takes time to evaluate the effect of the changes made to Frontex' mandate and the need for any resultant changes to return procedures.*

Point 29, 30: *The Commission takes note of the House of Lords' view that the budgets of EU Agencies should be revised, to enable them to conduct the activities foreseen by the Action Plan. Both Frontex and Europol received budget and staff increases in 2015, to finance their enhanced work in relation to the current migration crisis, including on migrant smuggling.*

¹ Study on smuggling of migrants: characteristics, responses and cooperation with third countries (September 2015).

² Article 21 of Regulation (EU) No 516/2014 of THE European Parliament and of the Council of 16 April 2014 establishing the Asylum, Migration and Integration Fund (OJ L 348, 24.12.2008, p. 98).

³ Directive 2008/115/EC on common standards and procedures in Member States for returning illegally staying third-country nationals.