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IOM contribution to the DG Home Consultations: The future of Home Affairs Policies

We live in an era of unprecedented human mobility, with more people on the move than any other time in recorded history. And yet, even while human mobility is acknowledged as one of the defining features of our contemporary world, it is also one of the most misunderstood. This is particularly true in times of economic downturn. The effects of the financial crisis continue to impact on public resources in many EU Member States, forcing difficult spending choices and limiting resources and capacities to deliver on commitments, but also making our societies more susceptible to populism and anti-migrants sentiment. Within this challenging context the EU must strive for an ambitious vision for the future EU justice and home affairs (JHA) policy. A fundamental shift in public perception and political discourse on migrants and migration is needed. Fears and misconceptions in the migration debate undermine possibilities for evidence based policy and the formulation of a strategic outlook. **When defining future priorities, IOM believes that it is essential to recognize the nature of migration as a process to be managed and not a problem to be solved.**

Under the Tampere, Hague, and Stockholm programmes an important body of EU policy and legislation has been developed in the JHA arena. Looking ahead, the future political priorities must provide adequate attention to consolidating and improving the quality of this existing legislation, as well as ensuring its full implementation. Following evaluation into the performance of existing policies, it will also be important to address remaining gaps. The future initiative should therefore focus on defining a coherent and consistent strategic approach which sets the political direction for EU action in justice and home affairs, and paves the way for a **common migration policy** supporting growth and competitiveness and migrants' rights and well-being.

Ensuring coherence with other EU policy domains that effect migration governance will be critical to the success of EU action in the JHA arena. To fully harness the potential contribution of migration and mobility policies to European growth and the goals of the Europe 2020 strategy, the future EU migration agenda needs to build synergies with economic and employment policies and support the ethical recruitment, and legal and safe employment of migrants, as well as their effective integration. Greater coherence will also be required between the internal and external dimensions of EU migration policies. In this context, reinforcing the external dimension must be a goal for the future JHA programme, in line with the balanced approach advocated by the four pillars of the EU's Global Approach to Migration and Mobility (GAMM)¹ and in coherence with the EU's external relations and development policies. Migration dynamics should also be fully reflected in the EU's external

¹ European Commission, *Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the Global Approach to Migration and Mobility*, 18 November 2011, COM(2011) 743 final

geographic and thematic instruments if the EU is to ensure credibility as a donor and genuine partner, effectively supporting third countries to improve migration governance, address the root causes of irregular migration, and complex migration challenges resulting from crisis situations as well as related protection needs. Within a comprehensive approach to migration governance, renewed efforts are needed to improve cooperation and coordination between all relevant stakeholders for the elaboration and implementation of coherent and effective return and reintegration policies.

The present paper outlines priorities for a comprehensive EU Migration Policy with three objectives: *enhancing migration governance for growth; ensuring protection; and reinforcing the external dimension through enhanced cooperation with external partners.*

ENHANCED MIGRATION GOVERNANCE FOR GROWTH

The *Europe 2020 strategy* notes that migration can be a key factor in boosting competitiveness and economic growth. To realize these goals, address labour market and industry needs, and offset the declines that are forecast in the European workforce, the future strategic guidelines will need to focus on the implementation of the new EU legislative instruments on legal migration supported by a variety of additional policies and tools, and increase measures to advance integration of newcomers and immigrants already residing in the EU.²

Legal migration

The EU legislative framework should be supported by operational tools that ensure legal, safe and effective labour matching.

Global competition for talent is making it increasingly difficult to attract and retain skilled workers. Clear, fair and transparently applied admission policies and rules on stay and employment of migrants and their family members would help improve the attractiveness of the EU for skilled migrants. To this end, future priority should be given to rigorous transposition and further legal interpretation of the EU legislative framework on legal immigration by the EC and the European Court of Justice case law. In addition, lifting restrictions to intra-EU mobility of third-country holders of the EU Blue Card after an initial evaluation of the Blue Card

Directive³ implementation could offer additional immigration incentives for the highly skilled. Adoption and transposition of the Seasonal Worker Directive⁴ would serve as a

² The EU population of working-age (15-64 years) amounted to 335.4 million in 2012 and is projected to drop over the next 50 years to 290.6 million in 2060, according to the latest Eurostat projections. With an ageing population, and on the assumption that migration continues on average as before, the old-age dependency ratio will rise from 26.8% in 2012 to 52.6% in 2060. (Cited in the 4th *Annual Report on Immigration and Asylum (2012)* COM (2013) 422 final).

³ Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment, OJ L 155/17, 18 June 2009.

⁴ Directive of the European Parliament and of the Council on the conditions of entry and residence of third-country nationals for the purposes of seasonal employment (currently being negotiated).

crucial step towards improvement of conditions for admission and stay of low-skilled workers in the EU.

The EU legislative framework should be supported by the development of operational tools that ensure legal, safe and effective labour matching of EU employers with workers in third countries or in other EU Member States, and with resident immigrant workers in their EU countries. One priority area in this regard is the fair and ethical recruitment of migrant workers. When labour migrants leave their home countries in debt, and arrive in the EU to jobs that are not what they were promised, and may be subject to violations of their human and labour rights, the consequences affect the migrants first and foremost but also all other stakeholders involved in the migration process including governments, the private sector and the general public. Unethical recruitment undermines government programmes and policies and corporate efforts to conduct business in a socially responsible way. Employers may unknowingly receive workers who have been exploited or trafficked, thus risking damage to their reputations, or face higher turn-over rates as the workers they receive do not have the necessary skills. Responsible recruiters face competition from unethical ones who damage the reputation of the industry. Governments in countries of destination suffer as these practices erode the integrity of immigration programmes and contribute to downward pressures on the labour market as foreign workers accept substandard wages and working conditions. In countries of origin, the development benefits of migration are decreased as a result of reduced remittance transfers (because earned wages often have to service debts incurred to recruitment agents), abuses and exploitation that hurt the whole of society.

Establishing effective mechanisms to support ethical and fair cross-border recruitment would reduce worker vulnerability, uphold the existing legal channels for labour migration and also help to combat wage dumping, which weakens labour market conditions for all workers.⁵ Employers would benefit from better job matching, brand protection and from publicly demonstrating that they adhere to fair recruitment principles in their business activities. Improved protection and opportunities for legal employment of migrants in line with labour standards would also help to facilitate their social integration in the communities of destination and reduce xenophobic sentiments.

⁵ IOM is actively engaged with a wide range of government, private sector and civil society stakeholders to enhance the integrity and transparency of the international recruitment industry. To this end, IOM and its partners will shortly be launching a Public-Private Alliance on Ethical and Fair Recruitment. In this context, IOM is working to develop the International Recruitment Integrity System (IRIS). In support of existing government policies and programmes, IRIS provides a global accreditation and monitoring mechanism for international labour recruiters that aims to bring greater transparency to the recruitment of foreign workers and allow all stakeholders to better differentiate fair and ethical recruiters from the rest.

Integration

Renewed political commitment to the social, economic and political inclusion of immigrants should guide future action.

Ultimately, the success of legal migration policies depends on the effective integration of newcomers and immigrants already residing in the EU. A shift towards more open, tolerant and inclusive societies is crucial to enable the EU to fully benefit from having increasingly diverse populations. Our evolving communities, not least due to immigration, need to find new forms of cohesion and societal solidarity based on shared fundamental values. This implies responsibility on the part of governments to maintain honest, but constructive and evidence-based discourse and action on migration and integration, which does not descend into populism and scapegoating.

IOM encourages renewed efforts to empower migrants to realize their personal and professional goals in various areas of public life, to address increasing economic and social marginalization of immigrants and their descendants and combat discrimination. The Common Basic Principles for Immigrant Integration Policy⁶ are still relevant a decade later. These principles as well as reinforced political commitment to improve the social, economic and political inclusion of immigrants, should serve as a basis for renewed action on the part of the Member States and the European Commission. This action must be informed by improved knowledge on the impact of various measures and monitoring of the EU indicators on integration.

Non-discriminatory access to institutions and services, including healthcare is an important aspect of integration. Health is a pre-requisite for active and productive participation in the labour market and for successful social integration. Safeguarding and protecting migrants' physical and mental health is therefore critical to ensuring the effective contribution of migration to the EU's growth and security objectives.

Countries of origin can play an important role in fostering migrant integration, in particular through pre-departure support in a variety of areas, including provision of information on admission, residence and employment provisions, civic orientation, job-matching assistance, language tuition, assessment of skills and qualifications and vocational training. Further consolidation of good practices and network-building of stakeholders within and outside the EU could be of benefit in this regard.

Finally, policy coherence will need to be strengthened at the EU, national and local levels to adequately address diversity in various policy areas, such as employment, social protection and poverty reduction, education, urban development, and healthcare provision.

⁶ Adopted by the JHA Council on 19 November 2004.

EUROPE THAT PROTECTS

Addressing Migratory Pressures and ensuring Migrants Protection

Future JHA priorities need to look beyond short term and advance a comprehensive approach that protects all migrants, irrespective of their legal status.

The tragic events of October 2013 in the Central Mediterranean have led to renewed consideration of the plight of migrants drowning as they attempt to reach Europe on unseaworthy vessels. Although such tragedies attract considerable public attention, they occur within broader systemic challenges to migration management. EU efforts to enhance border controls and tackle irregular migration in recent years have not had sufficient impact or decreased the number of arrivals to Europe. On the contrary, faced with restrictive entry requirements and few legal channels to access Europe, migrants, including refugees and asylum seekers, have resorted to alternative and often more dangerous routes, while smuggling and trafficking networks have profited. In addition, for some migrants reaching Europe, post-arrival conditions bring additional sources of vulnerability and new health concerns. The forthcoming JHA initiative must therefore place protection of migrants at the centre of concerns.

Ensuring legal channels for migration and mobility, including access to asylum procedures, is critical. The conclusion of the Common European Asylum System (CEAS) package is undoubtedly one of the most significant achievements under the Stockholm Programme. From 2015, attention will necessarily turn to ensuring the full transposition and implementation of the newly adopted legislation, as well as to enhancing practical cooperation between Member States. In this context, it will be important to give due attention to the challenges posed by complex migration flows and the variable impact of migratory pressures with the aim of developing mechanisms that would enable a truly European response, in line with the principles of solidarity and responsibility. IOM believes that EU Member States should also further consider mechanisms extending humanitarian protection to vulnerable groups such as unaccompanied minors, victims of trafficking, and people in need of urgent medical assistance. Similarly, resettlement programmes can provide important lifesaving options and should be used more extensively. Bi-annual setting of common EU resettlement priorities and greater financial resources for resettlement programming would support better planning and cooperation between EU Member States, helping to maximise the strategic impact and protection dividends of resettlement.

Shared responsibility for the external border

Freedom of movement for EU citizens and those legally residing within the EU is one of the most prominent achievements of the European project. Fraud and abuse of free movement by third country nationals, as well as the perception of increased migratory pressure at the external borders, fuel popular calls for increased border controls and border surveillance operations. However these tendencies currently threaten the delicate balance required to ensure an open and safe Europe that honours its responsibility to protect. The EU has a responsibility to keep borders open for those in need of international protection and to provide assistance to vulnerable migrants, in particular to victims of trafficking and unaccompanied migrant children. Concerted efforts will be required by all EU Member States to ensure a balanced, human-rights based and protection sensitive approach to the management of the EU external borders. It will also be important to support partner countries in their efforts to develop such an approach.

Enhancing the EU response to the migration challenges of crises

Proper analysis of the different human mobility dimensions of a crisis can help to define optimal response strategies.

Work to strengthen the EU's preparedness and response to migration dimensions of crises should be prioritized in the future JHA Programme. IOM also believes that a greater emphasis on addressing the migration dimensions of crisis situations⁷ can help to alleviate strains on the EU's asylum system to ensure it caters those it is meant to protect while reinforcing the capacities of the EU and governments to respond to the needs of affected populations, especially for the large number of migrants and other mobile populations not covered by existing protection tools and who may fall into vulnerable situations.

In order for the EU to enhance its analysis and contingency planning, it is essential to improve the quality and quantity of data collection on population flows. In addition to data on volumes and routes, more detailed analysis should consider motivations for certain routes, such as, for example, the importance of diaspora and family reunification in flows from Syria to North Africa. The Migration Crisis Operational Framework (MCOF)⁸ adopted by IOM's Member States, with the support of the EU, can provide a valuable tool to enhance Member States' preparedness and response capacity. By supporting analysis of the different human mobility dimensions of a crisis, including mixed migration, the MCOF can help to define optimal response strategies, potentially reducing irregular or forced migration to the EU by facilitating appropriate migration outcomes for persons displaced by crises.

⁷ These include the patterns of human mobility before, during and after a crisis, the types of consequences that emerge from these patterns, the implications of these types of consequences for rapid, inclusive, predictable and accountable responses for affected populations, and last but not least the needs of vulnerable mobile populations not adequately covered by existing mechanisms, particularly international migrants caught in crises in their destination/transit countries.

⁸ The IOM Council encourages Member States to utilize the Migration Crisis Operational Framework to enhance their own preparedness and response capacity to migration crises, with support from IOM. See IOM Council Resolution 1243 on "IOM Migration Crisis Operational Framework" as adopted by its Member States on 27 November 2012 (Available online: http://www.iom.int/files/live/sites/iom/files/About-IOM/governing-bodies/en/council/101/MC_2362.pdf).

Enhancing cooperation in the fight against human trafficking and smuggling

The future JHA priorities should envisage a comprehensive EU strategy on the fight against smuggling of migrants.

IOM welcomes the stronger commitments across the EU to work against trafficking in human beings (THB) in recent years. New EU legislation on human trafficking was adopted in record time. Proper transposition and implementation of the recast *Directive on preventing and combating trafficking in human beings and protecting its victims*⁹ will make a real difference, both for prosecuting traffickers and supporting victims, but also for preventing THB. Looking ahead, it will be important for the future JHA initiative to consider human trafficking, as well as smuggling, within the broader context of migration policy, beyond the narrow scope of criminal law. To this end, IOM believes that the EU should continue to mainstream counter-trafficking in relevant European policies and further support the Member States efforts to combat THB through inter alia ensuring adequate financial resources for implementing the EU Strategy.

To enhance protection for victims of trafficking, IOM believes that particular attention will be needed to support: development or updating of national referral mechanisms; policies to reduce demand; strengthening of child protection systems; and cooperation with the private sector. IOM also considers that the future JHA programme should step up efforts to fight organized crime networks, including people smuggling and trafficking networks by improving the quality of investigation and prosecution of these crimes thereby facilitating improved access to justice for victims of trafficking and smuggling.

Several EU countries are facing challenges related to irregular migration, in many cases facilitated by migrant smugglers. Migrant smuggling may endanger the lives of migrants or make them more vulnerable to trafficking, kidnapping and other crimes and abuses. Human smuggling is currently the fastest growing illicit trade in the organized crime world, estimated to generate some 35 billion USD a year. Building on the priorities recently adopted by the JHA Council within the EU policy cycle on serious and organized international crime, a comprehensive EU strategy on the fight against smuggling of migrants, which incorporates a human rights dimension in compliance with the EU Charter of Fundamental Rights, should be envisaged. The strategy should focus on enhanced practical cooperation and exchange of information between Member States, as well as with EU Agencies, and deepened external cooperation with third countries and relevant regional and international organizations.

⁹ Directive of the European Parliament and of the Council 2011/36/EU of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA, OJ L 101/ 1, 15 April 2011.

A coordinated and comprehensive approach to return migration

In the context of increasingly complex and multidirectional migratory movements, humane and orderly return migration should be considered as an integral component of effective migration governance and migrant protection. Assessing the needs of returnees and tailoring reintegration measures remains a particular challenge and should be accompanied by broader development programmes that strengthen local capacities to support returnees and mitigate the key determinants of re-migration, while promoting development in receiving communities. Engaging all relevant stakeholders in dialogue and partnership at the national, regional and international levels is essential for such policies to be coherent and effective.

REINFORCING THE EXTERNAL DIMENSION THROUGH ENHANCED COOPERATION WITH EXTERNAL PARTNERS

Deepening dialogue and operational cooperation with external partners will be critical to advancing goals of mutual strategic interest, achieving growth and security objectives, and addressing root causes of forced and irregular migration under the future JHA initiative. Looking to the future, IOM believes greater focus should be given to achieving balance among the thematic areas of the EU's Global Approach to Migration and Mobility (GAMM) and strengthening its tools. While the current geographic priorities remain relevant, greater investment is particularly needed in cooperation with the Horn of Africa/East Africa, while cooperation with the Neighbourhood should be consolidated. Thematic priorities for the EU's work with countries of origin and transit will need to address key areas of migration governance including legal migration and mobility, irregular migration and readmission, trafficking in persons, migration and development, and environmental degradation, climate change and migration.

Ensuring a balanced approach and strengthening the GAMM tools

Deepening dialogue and operational cooperation with external partners will be critical to advancing goals of mutual strategic interest, achieving growth and security objectives.

While, the GAMM has evolved considerably since its inception in 2005- both in its geographic and thematic scope as well as the tools of implementation - important challenges remain to realizing the goal of an external migration policy framework that is “fully coherent” with all other aspects of the EU's external relations policy. As the number of EU actors involved in migration-related policies and funding increases, there is a growing need to ensure coherence of internal and external actions, as well as between national and EU actions. Links are increasingly being developed between migration, development and humanitarian responses as well as other policy areas such as fundamental rights, employment, social inclusion, enlargement, research, health, education and culture, climate change, environment, trade, customs, and regional development. As a key factor in major development questions and solutions, it is also essential that migration issues are adequately reflected in the EU's external funding for 2014-2020 and the Post-2015 Development Agenda. The mainstreaming of migration into

programming of EU geographic funds, in synergy with the thematic migration funds, remains an important challenge to the GAMM's impact at bilateral and regional levels.

The GAMM has underlined the equal importance of its four pillars: addressing legal migration and mobility; irregular migration and trafficking in human beings; international protection and the external dimension of asylum; and migration and development. This balance is essential for establishing mutually beneficial cooperation on migration, strengthening migration governance in third countries, and ensuring the EU's credibility as a donor and genuine partner. The Global Approach has, however, suffered criticism for an emphasis on irregular migration in policy and funding priorities, at the expense of the other pillars and migrants' rights. The establishment of indicators as well as improved dissemination activities would support enhanced internal and external monitoring of the balance of the EU's Global Approach.

With regard to the tools of the GAMM, the Mobility Partnerships, although structured around the four pillars, have faced similar criticism of offering few new commitments from the EU and signatory Member States and limited channels for legal migration and mobility in the short and medium term. Evaluation of the Mobility Partnerships as well as the EU-supported regional migration dialogues has also been limited, while initial EC proposals to strengthen dialogue with the Horn of Africa has not yet materialised and progress in Asia has been limited. The experience of the Extended Migration Profile in Moldova has demonstrated its value as a GAMM tool to monitor the Mobility Partnership and support evidence-based policymaking. Although a wide range of EU-funded Migration Profiles continue to be developed, the methodology remains inconsistent among implementers and, at times, unsustainable. In the coming years, priority should be given to better systematizing the Migration Profile Process and improving migration data collection and interpretation capacities in order to support sustainable and nationally owned models. Lack of capacity within third countries is among the key impediments to more effective functioning of bilateral migration dialogues and cooperation measures with the EU. Continued support to capacity development and the elaboration of solid migration policy, national identity management practices, and legislative frameworks in transit and origin countries remains important.

Geographic Priorities

The GAMM's current geographic priorities remain relevant. In the Western Balkans, priority issues include adaptation to the EU *acquis* in the JHA area, as well as actions to address irregular migration at a regional level. In Turkey, the EU should continue to cooperate with the government to implement their migration reforms in the objective of achieving visa liberalization. The European Neighbourhood continues to be the main testing ground for the EU's toolbox of Mobility Partnerships, Regional Dialogues, Readmission Agreements and Visa Facilitation and Liberalization. Here review and further refinement of the GAMM's traditional tools of implementation should be encouraged in the aim of ensuring a balanced and comprehensive approach. In addition, recent events have highlighted the pressing need for an enhanced cooperation on migration with countries in the Horn of Africa/East Africa region, which continues to be a source region of complex migration flows. Noting that migration flows from West Africa and the Sahel region place further migration pressure on

North Africa and onward towards Southern Europe, partnership also needs to be further strengthened in this region.

Thematic Priorities

EU cooperation with countries of origin and transit will need to be strengthened in key areas of migration governance.

Cooperation and enhanced dialogue with external partners on legal migration and mobility will remain critical to the success of EU efforts to fill gaps at all skill levels in line with labour market needs and should be enhanced. Within the framework of migration dialogues and Mobility Partnerships, key areas for multilateral and bilateral cooperation with countries of origin include: pre-departure integration measures for migrants; joint skill development of workers; portability of social and pension rights; and effective recognition of qualifications and competences. Given the increasing migration and mobility from the EU towards other regions, it is also important to reinforce such cooperation with the emerging economies in order to protect the rights of EU nationals working worldwide and to enable their potential return and circulation.

In the area of irregular migration, IOM considers that further efforts are needed to share experience among signatory countries in the negotiation and implementation of EU Readmission Agreements and their Protocols. Potential areas for exchange and/or replication of good practices among third countries include the establishment of voluntary return and reintegration programmes, development of electronic readmission application systems, the enhanced use of biometrics in identity resolution, as well as capacity building and monitoring programmes to ensure the respect of migrant rights throughout the process.

IOM has welcomed the priority given to enhancing cooperation with third countries by the EU Strategy to Eradicate Trafficking in Human Beings.¹⁰ Renewed efforts will be needed to enhance cooperation between EU Member States, EU Agencies (Europol, Eurojust and Frontex) and countries of origin and transit for the investigation and prosecution of trafficking and smuggling offences. Looking beyond Internal Security objectives, IOM believes it will be equally important to develop the skills and resources of partner and source countries to prevent and reduce trafficking as well as better protect and empower victims.

In relation to migration and development, IOM recommends that greater attention is given to the dynamics of South–South mobility under the future priorities of the external dimension. South–South migration is as important in magnitude as South–North migration.¹¹ Return migration in a South–South context seems both more likely and to occur on a larger

¹⁰ European Commission, *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on The EU Strategy towards the Eradication of Trafficking in Human Beings 2012–2016*, 19 June 2012, COM(2012) 286 final.

¹¹ According to Gallup sources, only 40 per cent of migrants move from South to North. At least one third of migrants move from South to South (although the figure could be higher if more accurate data were available), and just over a fifth of migrants (22%) migrate from North to North. A small but growing percentage of migrants (5%) migrate from North to South, see IOM, *World Migration Report 2013 - Migrant Well-being and Development*.

scale than in South–North migration. Diaspora members in the South are also interested in engaging with their communities and countries of origin, but have been largely left out of the picture. Countries in the global South face some of the same challenges as the more traditional immigration countries in the North, such as those related to the integration of immigrants, migrant workers’ rights and gender issues, or youth unemployment. These considerations call for a rethinking of mobility, in preparation for new patterns and challenges that will arise in the next decades.

Environmental degradation and other forms of human vulnerability (including unmanaged urbanization, demographic pressures and unsustainable forms of development) that can be exacerbated by climate change have already and will continue to trigger significant migration and displacement. Apart from climate change-related displacement, people are also increasingly using migration as a strategy to *adapt* to their changing environment. IOM believes that the future strategic guidelines should give greater attention to the full spectrum of the human mobility dynamics of climate change.

CONCLUSIONS

Among the future priorities, IOM considers that the next programme should include harnessing the contribution of migration to growth and innovation and improving synergies with economic and employment policies. It will be equally important to enhance protection of vulnerable migrants, strengthen cooperation on voluntary return and reintegration, and provide support to Member States facing particular pressure on their migration management systems. In the external dimension, coherence and consistency in EU cooperation and dialogue with countries of origin and transit must be strengthened to improve the governance of complex migration and effectively address the root causes of irregular migration. IOM, as the leading migration agency, stands ready to support the European Commission in this task with expertise and operational tools. *Only a balanced and comprehensive approach, which addresses legal channels for migration and mobility and promotes the rights and well-being of migrants, in partnership with countries of origin and transit, can be effective in the long term for securing the EU's internal security priorities and growth objectives.*