

SOURCE Legal Card – European Agenda on Migration (EMA)

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CONTENT

- Following the Mediterranean incident which occurred on the 14th of April 2015 near the shores of Libya, which resulted in the death of an estimated 400 individuals and the rescue of another 900 migrants, the European Commission decided to respond to the humanitarian crisis with a proposal of a new [European Agenda on Migration](#) (EMA).
- The proposal put forward by the European Commission foresees 2 types of actions, immediate and long term, together with some long term goals.
- The **Immediate Response** consists of tripling the capacities and assets of the Frontex joint operations Triton and Poseidon in the next 2 years and the introduction of a ‘Hotspot’ approach under the coordination of the European Commission and its Agencies working in the field of migration. The aim of these agencies and of the Member States is to identify, register and fingerprint incoming migrants at the external borders of the EU in order to process asylum cases faster. Frontex, with the help of the Member States, is in charge of the return of those migrants who have been identified as not in need of protection. Europol and Eurojust are foreseen to play a role in fighting smuggling and human trafficking networks.
- The immediate response foresees also financial instruments, approx. 60 million Euros in emergency funds, for achieving better coordination and results.

- The Immigration Management Plan is built around four pillars of intervention, consisting of irregular immigration, border management, asylum and legal migration. The main priorities are:
 - Reducing the incentives for irregular migration by ‘addressing the root causes of irregular and forced displacement in third countries’ and by fighting against smugglers and traffickers;
 - Saving lives and securing the external borders;
 - A strong asylum policy with shared responsibility between EU members;
 - A new policy on legal migration.

On the long term, in regards to **legal migration**, the EU policies do not address enough the needs of third country nationals for mobility and migration.

- Although the Commission agrees on the need to increase the working-age population, the revision of the Blue Card legislation on admission of highly-skilled migrants seems very modest.
- The adoption of rules for non EU service providers as part of EU free-trade agreement may lead to more paths for legal migration but it is not clear yet how immigration rules will be applied by various Member States under these international free trade agreements.
- Although the revision proposal for EU Visa Code was adopted in 2014 by the European Parliament and had very generous initiatives, the expected agreements due be concluded in spring 2016 are very likely to bring no fundamental changes to the Visa Code due to the present climate, which is focused on securitarian measures for migration management and fight against terrorism.

CONTENT

- In terms of **irregular migration**, EMA refers to an Action Plan against smuggling of migrants due at the end of May and the enforcement of the EU [Directive](#) on employment of irregular migrants. On the issue of returns and readmission, the EU [Return Directive](#) aims to give Frontex the power to return irregular migrants and people not in need to humanitarian protection.
- On **border management** the EMA refers to revising the ‘Smart Borders’ proposal initiative for the introduction of an entry-exit system for non-EU nationals. In terms of **asylum** related measures, the Commission refers to the revision of the Dublin System and enforcing the Common European Asylum System. In order to achieve this the Commission foresees working together with EASO on releasing guidance documents and starting infringement procedures against those Member States which do not comply with their obligations.
- The **Emergency Plan for Relocation** consisting of the Council Decision (EU) 2015/1601 of 22 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and Greece has implementation shortcomings.

COMMENTS

- The EMA raises a number of concerns to be further followed up regarding the proposal and the need for a broader reform of the legal migration policies in the EU.
- The European Commission (EC) revision of the 'Blue Card', due for March 2016, should advance conditions for admission process for highly-skilled third country nationals. However, the revised version of the Blue Card Directive does not seem to improve much the conditions for legal migration, however it aims to facilitate more access for recognition of skills and qualifications of third country nationals.
- An Action Plan against migrant smuggling has been released by the EC, entailing the revision of the EU anti-smuggling law, foreseen for 2016. A military intervention to locate, capture and destroy smugglers' vessels is employed on the Libyan coast, without clear understanding on what the mandate of the mission is. Although the command appears to be under civilian rule, it is not clear how the military competences come into play and in which way they manifest.
- The EC adopted a Guidance on fingerprinting asylum-seekers, which enables a more efficient application of the 'Dublin' rules, however this measure seems very much as a 'policing' practice which in practice proved to be inefficient.
- The Recommendation on the resettlement of refugees directly from outside the EU to EU Member States is foreseen to offer financial incentives for states to resettle people. The EU has adopted in September 2015 the Decision to relocate asylum-seekers within the EU (against the opposition of several Member States), followed by a Proposal for a permanent system of provisional measures. The Council Decision on voluntary relocation of less than 40.000 asylum-seekers from Greece and Italy to other Member States is very modest compared to the real needs. offers to take asylum-seekers are voluntary.



CONCLUSIONS

- EMA takes for granted the Common European Asylum System, however, it is clear that substantial changes are needed for it to work.
- The immediate action plan to address the migrant crisis has not worked so far, just as the resettlement proposals have not worked.
- On returns and readmission it is clear that the European trend is to agree on more readmission treaties to be signed. The major concern is that more people may risk the possibility to be returned before their need for protection to be carefully assessed.
- The recent proposal of the European Council of June 2015 following the EMA makes reference to the identification, registration and fingerprinting at 'hotspots'. Although such initiative might be effective the Council's proposal does not ensure how the adequate treatment of asylum-seekers will take place. It is not clear what the future of 'Hotspots' is and whether the action against smuggling and the destruction of migrant boats is done in accordance to international law and smuggling legislation. There are many **ethical and excessive coercion concerns regarding the way asylum seekers and refugees are handled**
- The current proposal leads to changes in the application of the **Dublin system** of responsibility allocation by allowing for the application claims of asylum seekers to be processed by other Member State than those of their first arrival in the EU. However **The asylum seekers are not given any power in selecting their transfer destination.**
- The EC adopted the Decision on the relocation of asylum seekers between Member States, with an introduction of quotas. It has been adopted by the Council, but no serious action has followed, at the moment less than 400 people being relocated across Europe.

REFERENCES

- Commission, COM(2015) 240 final Communication from the Commission to the Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on a new European Agenda on Migration.
- Councils Conclusions, EUCO 22/15, 25-26 Jun. 2015, Council doc.
- Council Decision (EU) 2015/11161 of 3 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and of Greece.
- Council Decision (EU) 2015/1601 of 22 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and Greece.
- COM(2015) 450 final 2015/0208 (COD) Proposal for a Regulation of the European Parliament and of the Council establishing a crisis relocation mechanism and amending Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third country national or a stateless person.
- 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, 18.6.2009, p. 17–29. The United Kingdom and Ireland did not "opt-in" to this Directive and are not bound by or subject to its application.
- Directive 2009/52/EC of the European Parliament and of the Council providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals.
- Directive 2008/115/EC of the European Parliament and of the Council on common standards and procedures in Member States for returning illegally staying third-country nationals.



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