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#### NOTE

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From:	Presidency
To:	Delegations
Subject:	Enhancing Cooperation with the Western Balkan Countries: Combating Migrants Smuggling - Presidency Discussion Paper

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#### INTRODUCTION

During its term, the Croatian Presidency intends to further promote a comprehensive approach towards the cooperation with the Western Balkans countries, as a region of high strategic value for the EU. This initiative constitutes a specific component of a broader cooperation which was given new momentum in 2018 by the Commission strategy for a credible enlargement perspective for and enhanced EU engagement with the Western Balkans<sup>1</sup>, and the subsequent declaration from the summit held in Sofia on 17 May 2018.

Over the last few years, the EU and its Member States have been facing major challenges related to migration and security. Compared to 2015, the number of detections of illegal border crossing along the EU's external borders decreased significantly, but the migratory pressure remains relatively high.

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<sup>1</sup> COM(2018) 65 final.

Hence, HR PRES has chosen to emphasise the cooperation between the EU's agencies, Member States and with the Western Balkans partners on the suppression of the smuggling of migrants and to continue the so far excellent work of previous presidencies on further developing this cooperation, with a strong focus on the information exchange and specific needs of law enforcement community.

## **A CONCISE OVERVIEW**

According to FRONTEX data<sup>2</sup>, between January and October 2019, 107.300 illegal border crossings were recorded at the EU's external borders, representing a decrease of around 16% compared to the same period in 2018. This was a result of a decrease of registered illegal border crossings on the Western and Central Mediterranean routes, while the Eastern Mediterranean route saw an increase since February 2019, amounting to about half of all registered illegal border crossings by October 2019.

Along the Western Mediterranean route, in ten months of 2019, compared with the same period in 2018, was recorded a decrease of illegal border crossings by 55%, due to an effective cooperation between the EU, Spain and Morocco. Illegal migration pressure from Morocco is not expected under the condition that the Moroccan authorities continue to carry out preventive activities. Any reduction of these efforts would directly contribute to increasing pressure on the Spanish coast. Just as in 2018, the number of irregular migrants from Algeria is increasing since August 2019. The migratory pressure at the Algerian - Spanish corridor is expected to continue until the deterioration of weather conditions that hinder illegal crossings.

In 2019, the number of recorded illegal crossings on the Central Mediterranean route remains below the 10 month average. By October 2019, over 11.900 illegal border crossings were recorded, showing an upward trend compared to 2018. A larger number of migrants have been registered in Malta, while their number of arrivals to Italy is decreasing. The Libyan Coast Guard continues patrolling in their SAR zone, while the existing conflict in Libya does not affect so far their patrolling capacities.

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<sup>2</sup> Frontex, October 2019, "Monthly Analysis"

On the Eastern Mediterranean route, the EU recorded a peak in illegal external border crossings in September 2019 with 13.100 cases and the increasing trend is clearly visible even though their number was reduced to 10.800 in October 2019. The pressure has mostly affected the eastern part of Greece. The largest share of irregular migrants concerns the nationals of Afghanistan and Syria (just over 30%). However, these numbers are significantly reduced compared to 2015 and 2016 when through the Eastern Mediterranean route arrived almost one million irregular migrants and refugees from the Middle East and Africa. Due to a successful agreement between the EU and Turkey in March 2016, all new irregular migrants and asylum seekers arriving from Turkey to the Greek islands and whose applications for asylum have been declared inadmissible should be returned to Turkey.

In the area of the Western Balkan routes, the number of illegal border crossings recorded on the EU external border has been higher since January 2019 (compared to 2018), although the available data for October 2019 shows a slight decrease. Irregular migrants continue to arrive from Turkey and accumulate in Greece, which encourages further illegal migration to the Western Balkans and then further on to Western European countries. The migratory pressure continued at the Serbian border with Croatia, Hungary and Romania, with a noticeable increase since mid-2019 at the Serbian-Romanian border. The arrival of irregular migrants from the south, as well as of migrants accumulated in this region, is expected to continue with a possible increase of pressure.

The main entry points on the Western Balkan area are Albania and North Macedonia, both as a result of illegal migrations from Greece, mostly via Turkish - Greek land border along the Eastern Mediterranean route, as well as from Serbia, due to visa free regimes that the country put in place with a number of third countries. The visa free regime in Bosnia and Herzegovina for Turkish nationals also creates opportunities for the misuse of such schemes. As it is situated on the crossroads of several illegal migrant routes, the North Macedonia is mostly a transit country, while Kosovo has a double role, both as a transit country and the country of origin of irregular migrants. The main transit routes to Kosovo are from North Macedonia via Greece, and then further on to Serbia towards Croatia, Hungary and other EU Member States. Albania is the country of origin of irregular migrants, but also represents one of the leading transit routes of the irregular migrants towards Montenegro and Italy. Serbia is situated in the centre of the illegal migrants' routes through the Western Balkan region. For the irregular migrants arriving from Albania, Montenegro is more recognized as the transit country towards Bosnia and Herzegovina, and further on to Croatia. Bosnia and Herzegovina is also a transit country, from where irregular migrants are trying to enter in Croatia. Closure of the Hungarian - Serbian border and complete monitoring of the Croatian - Serbian as well as the Croatian - Montenegrin border, resulted in a redirection of one part of the illegal migrations over the territory of Bosnia and Herzegovina.

For the irregular migrants arriving from Serbia, Bosnia and Herzegovina and Montenegro, Croatia also appears as a transit country, from which they are trying to enter Slovenia, Italy and Hungary.

EUROPOL<sup>3</sup> highlights the Western Balkans region as one of the key areas for migrant smuggling activities. The largest share of the detected smugglers are of Hungarian, Romanian and Serbian nationalities, followed by Syrian, Turkish, Pakistani, Iraqi, Afghan and Ukrainian nationals<sup>4</sup>.

According to EUROPOL's European Migrant Smuggling Centre (EMSC)<sup>5</sup>, migrants smuggling has an ever-increasing place in organised crime and the migrant smugglers are easy to adapt to changes related to newly identified migrant smuggling routes, the way in which they are committed and the new forms of smuggling of irregular migrants.

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<sup>3</sup> Europol - European Migrant Smuggling Centre, "3<sup>rd</sup> Annual Activity Report 2018"

<sup>4</sup> Europol - European Migrant Smuggling Centre, "Europol Monitoring Team Report (EPMT - No. 409)"

<sup>5</sup> Europol - European Migrant Smuggling Centre, "Use of camper vans and campaigns for migrant workers across the Balkan route", Ref. No. 14/2019, August 2019

## CURRENT SITUATION AND MODUS OPERANDI

It has been noted that organised criminal groups dealing with migrant smuggling are increasingly supplying them with fraudulent travel documents and thereby facilitate their entry into the territory of the European Union. These are counterfeited or falsified documents, but also original documents used in a fraudulent manner, as well as documents obtained on false grounds. Tourist and business visas are increasingly being used, organised criminal groups use for their acquisition various legal entities (tourist agencies, law firms, various companies) and misuse of false supporting documents. One of the biggest problems faced by both, the Member States and the third countries, is the difficulty to identify irregular migrants, given that the majority of them do not have any identity documents on them when found, and very often state to be minors to avoid sanctioning and receive accommodation in open type institutions which facilitates re-attempts to leave the territory of the Member States and move to other countries outside the EU (Switzerland, Iceland and others). The asylum system is also being abused so that migrants can acquire the right of temporary residence in a Member State and Western Balkan Countries, which subsequently allows them to travel to their final destination. Marriages of convenience/sham marriages and abuses of residence rights for school and university students are the most common procedures for obtaining a long-term and legal right of residence.

The first contact with the migrant smuggling organisers is in the country of origin of the irregular migrants or a country/location known as the illegal migration facilitation hub where the smuggling price is agreed, plans are made for any deliberate arrival in migrant facilities where a migrant group/groups is/are formed ready for further smuggling, etc. Reception centres often accommodate persons who abuse their status as applicants for international protection (asylum) and organise illegal crossings of people to EU Member States and third countries. They are mostly Asian and African nationals, who, in agreement with the migrant smuggling organisers from abroad and with the intention to cover their own smuggling costs and to gain additional illicit earnings, are taking the role of assistants and couriers for newly arrived applicants for international protection (asylum).

Another modus operandi is that irregular migrants who wish to move to the territory of the EU contact other persons in the EU in order to obtain invitation and guarantee letters or hotel reservations in order to justify their arrival in the EU. Namely, the organisers of the smuggling are trying to bring irregular migrants in smaller groups legally into the EU and, in case that their entry into the country is denied, are illegally transferred across the border. Once a larger group of migrants is formed, they are further smuggled towards the country of destination. In each of the countries on the smuggling route, there are members of the team working on parts of tasks such as reception, accommodation and further transfer of migrants. Migrant smugglers work closely together in all countries along the whole smuggling channel. There is a clear division of tasks between the organiser and the acting parties. The immediate transfer of migrants involves a minimum number of guides well familiar with the territory along the national border. Migrant smugglers often reside in the EU and usually have the same nationality as the irregular migrants they smuggle. Usually, the opportunistic smugglers are locals from countries of transit. The heads and main facilitators of organized criminal groups often are nationals from the migrants' countries of origin; however, these groups also tend to use drivers from transit countries along the route for the actual transportation of irregular migrants.

Irregular migrants are also recruited in countries of origin and transit, while social networks continue to allow advertising of offers, as well as demand. Some migrant smugglers openly advertise their smuggling services, e.g. via Facebook, while there are also closed groups which are only available through reliable partners and associates. A recent discovery involves the use of so-called 'BURNER' apps during the communication between irregular migrants and smugglers (an application enabling the phone number created automatically to be deleted once the call has been made, i.e. it displays a completely different regional prefix). The most recent trend indicates the use of the TELEGRAM platform allowing real-time information exchange, as well as a certain degree of anonymity for the user of this platform on the mobile device. The platform is also used to advertise and exchange original lost or stolen documents used in smuggling activities. This clearly indicates that migrant smuggling is increasingly becoming digital.

The migrant smugglers often charge for their services in cash, but also use Western Union and withdrawals through notified codes, via Hawala and MoneyGram.

Smuggled persons sometimes pay for themselves for their further transfer, while criminal profits are distributed according to the level of the hierarchical scale, in such a way that the lowest group members receive the smallest part, while the largest amount is retained by the organisers of the smuggling. Various companies are used in order to obtain a guarantee letter to show the legality of the stay in the Member States, whereas smaller hotel/motel owners are involved in the provision of accommodation services. The organisers arrange illegal border crossings of larger or smaller groups of irregular migrants through transit states in lorries, campers, trucks, containers, refrigerated trucks, passenger cars, by way of a guide, on foot and by other means. An especially hazardous means of transport should be pointed out, namely the concealment of irregular migrants in containers, trucks and refrigerated trucks. Transport is often coordinated through encrypted mobile communication apps. With regard to the extremely hazardous means of concealing and transporting irregular migrants, we would like to single out the 2015 event when 71 deceased irregular migrants were found in Austria on the motorway in a truck and an event in 2019 when 39 deceased irregular migrants were found in the United Kingdom in a refrigerated truck.

It should also be stressed that there is an evident trend towards the development of “traditional” organised criminal groups into ‘poly-criminal’ organised criminal groups, which are highly flexible and adaptable and deal with different types of crime in their illicit activities that will earn them a fast and easy profit (smuggling and trafficking in human beings, drug and weapons smuggling, document fraud, corruption crimes and others). They reinvest gained profit in the continuation of criminal activities and/or implement it into legal economic flows (money laundering). The same modus operandi for illegal goods smuggling has been often adapted for facilitating of migrants smuggling, therefore migrant smuggling should also be perceived as the phenomenon that could be interlinked with other cross border crime types.

## THE WAY FORWARD

Efforts to combat migrants smuggling have been substantially improved building on the experience of the migration crisis in 2015. In February 2016, EUROPOL's "European Migrant Smuggling Centre" was established. EUROPOL provides significant support in the form of exchange of information, operational coordination but also cutting-edge analysis tools. In parallel, EUROJUST facilitates the exchange of evidence for use in court proceedings in the context of Joint Investigation Teams (JITs). In addition, the mandate of FRONTEX was improved in 2016 allowing it to collect data on migrant smuggling routes, and now facilitates the possibility to plan, implement and evaluate permanent multipurpose joint operations with executive powers at EU external borders and at the borders of key third countries. Those activities embrace border control as well as the prevention and detection of serious crime with a cross-border dimension that is committed or attempted at, along or in the proximity of the external borders, on Member States or third countries territory, including the common maritime borders, with the focus on migrant smuggling, trafficking in human beings, stolen vehicles, smuggling of drugs, weapons, document fraud and terrorism.

FRONTEX also provides its Multipurpose Aerial Surveillance (MAS) activities in the region, and continues to coordinate regular monthly data exchange and analysis in the framework of WB-RAN. It involves experts from the border management structures of all Western Balkans countries, and neighbouring EU Member States to support strategic-level awareness.

Bilateral and multilateral actions and efforts to combat migrants smuggling along the Western Balkan route have been improved, using the Joint Operational Office (JOO). The JOO was established in Vienna in 2016, on the Austrian initiative. Under existing international agreements, such as Prüm or PCC SEE, officials at JOO carry out investigations at one shared location and not from a distance of hundreds of kilometres away. Recent Joint Action Days, which were coordinated by JOO Vienna and FRONTEX under EMPACT/EU Policy Cycle and targeted the WB area, have also allowed to exercise intense law enforcement operational cooperation (e.g. JAD Danube 4).

In addition to protecting the EU's external borders and Member States asylum policy, a comprehensive and efficient approach involves also an operational cross-border fight against migrants smuggling at EU level, as well as a cooperation with relevant neighbouring third countries, with timely and effective exchange of information through EUROPOL and FRONTEX and directly between all law enforcement authorities. This is a possible through a study/overview of contemporary trends based on which problems are identified in time and targeted action is carried out using appropriate measures available to the Member States.

The longstanding cooperation between the EU Member States and the Western Balkan countries in migrant smuggling remains one of the key priorities for cooperation.

The cooperation between the countries of the EU and the Western Balkans continues to be established through operational activities within the EU Policy Cycle, as an important contribution to the fight against migrant smuggling. The EU Member States and Western Balkan countries should strengthen their cooperation with EU law enforcement agencies to improve their capacity to combat organised crime. Law enforcement should enhance the exchange of information and simplify the conduct of investigations. Special attention should be directed to a timely and effective exchange of operational information through EUROPOL and FRONTEX and between law enforcement authorities, involving them at an early stage of criminal investigations, as well as to an increased performance of the judiciary in their judgements.

FRONTEX organized five Joint Action Days (JADs) in 2019, of which 3 were supported by the countries in the Western Balkans. Similar activities are planned for 2020 and the JADs and the EMPACT platform as a whole represent an opportunity for sustainable cooperation with those countries in the region across the whole spectrum of different crime areas, with a focus upon migrant smuggling.

EU Member States but also Western Balkan countries could improve the results by providing data on major cases of national and international criminal smuggling of migrants and stepping up their participation in the EU Policy Cycle/EMPACT "Facilitation of Illegal Immigration" priority.

The successful (timely) asset freeze and confiscation of misappropriated proceeds is necessary to prevent proceeds from being reinvested in other criminal activities, including corruption, or invested in legal economic flows. The successful confiscation of such property requires its effective identification and its cross-border monitoring.

Also, the exchange of experiences and best practices between EU Member States and with the Western Balkan countries is needed, as well as the strengthening of joint training and further awareness and education provided by EU Agencies (EUROPOL, EUROJUST, FRONTEX, CEPOL). Stepping up operational cooperation between Member States and third countries can be achieved by using existing concepts and strategies and by existing networks established by EUROPOL, EUROJUST, FRONTEX and INTERPOL.

Given the fact that in the EU, but also Western Balkans countries, there is a large number of various international initiatives with the primary goal (or as one of side goals) to combat migrants smuggling, it is necessary to establish their final number and possible overlaps of their activities, with a view to assess their realistic appropriateness and to target activities which are deemed as most efficient. Among others, under the EU Policy Cycle/EMPACT “Facilitation of Illegal Immigration” priority, and the relevant Operational Action Plan 2020, there are 2 activities with high importance for the Western Balkan region and suppression of migrant smuggling: “Task Force Western Balkan (TFWB)” managed by JOO Vienna in close cooperation with the EMSC and “Operational Action Risk”, the investigative action targeting organized criminal groups facilitating illegal immigration by transporting irregular migrants clandestinely in concealments, primarily related to the Balkan route.

One of the possibilities for enhancement of cooperation with the Western Balkan countries is further strengthening the network of EUROPOL liaison officers. Currently, most of Western Balkan countries have liaison officers in EUROPOL (except Bosnia and Herzegovina and Kosovo), while EUROPOL has deployed a liaison officer to Albania and has 2 liaison officers covering Serbia and Bosnia and Herzegovina from The Hague. Deployment of EUROPOL liaison officers to Western Balkan countries has been challenging and consequently - delayed. Therefore, it is still difficult to fully assess the impact of that measure.

EU Member States should pay particular attention to the already identified threats and possible security risks posed by the criminal groups dealing with the illegal activity described above and their possible connection to members of other international organised criminal organisations and terrorist groups. Interaction between particular EU Policy Cycle/EMPACT Priorities and the organization of multipurpose Joint Actions Days would be advisable as well.

As a positive practice, we can mention the experience of the EU Member States related to the intensified actions on combating illegal migration and criminality related to migrant smuggling, which is carried through the establishment of separate operative actions that are conducted in the areas classified by the security evaluations as the most endangered from this type of crime. They consist of a separate set of operative groups of police officers who primarily act on the fight against migrant smuggling. Also, as a positive experience, we would like to mention the setting up of check points on the roads, so-called "funnels", primarily with the aim of intensifying activities to combat illegal migration, including all forms of smuggling. They are reflected in targeted traffic management so that traffic is channelled into one lane, thereby reducing the speed of vehicles which are then selectively singled out into a separate area where detailed control of persons and vehicles is carried out, in order to find irregular migrants and smugglers. This activity involves, in addition to police and border police officers, also customs officers. Croatia implements these actions as well.

Migrant smuggling still remains a very profitable form of organised crime and calls for enhanced cooperation between the EU and its partners in the Western Balkans. EU agencies, Member States and Western Balkan partners reported increased cross-border cooperation and joint investigations into trafficking in human beings and smuggling of migrants. Greater police cooperation, exchange of experiences and best practices, capacity building, mutual training and education with the support of the EU agencies, cooperation and coordination between relevant EU Member States' intelligence services and the Western Balkans, as well as between law enforcement authorities, prosecutors and the judiciary, are necessary preconditions for a successful fight against migrant smuggling.

With regards to future developments the following could be considered:

The new Regulation (EU) 2019/1896 establishing the role and tasks of FRONTEX entered into force. This Regulation provides, for the first time, the EU with its own uniformed service - the European Border and Coast Guard Standing Corps.

The Standing Corps, composed of FRONTEX and EU Member States' operational staff, will at any time be able to support the Member States facing challenges at their external borders. Its main tasks are in the area of border and migration management, as well as return operations including border control at land, sea and air borders; border surveillance; collecting and sharing information on the situation at the EU's borders and beyond; supporting search and rescue activities; returning people who do not have the right to stay in the EU; fighting cross-border crime, including migrant smuggling, document fraud and terrorism.

European Border and Coast Guard Standing Corps officers will be working in operational areas at the EU's external borders. The officers may also work in a non-EU country, provided it has signed a Status Agreement with the EU. It is expected that either the current Status Agreements with Western Balkan countries will be revised, or a dedicated international agreement is to be elaborated, allowing FRONTEX (and its Standing Corps) to collect and process personal data in those Western Balkan countries, resulting in the exchange of data at regional level. The data would be also accessible to EU Member States.

Joint Investigation Teams are a good model of cooperation. Trainings in further data analysis could be offered to Western Balkan countries who received training on screening/debriefing. Staff exchanges and development of professional exchanges and contact points could be envisaged in order to stimulate operational cooperation and fostering of law enforcement cross border efficiency.

In this respect, HR PRES has prepared a set of facilitating questions for discussion in the forthcoming meeting.

## **DISCUSSION**

- 1. What measures have been taken by EU Member States to better tackle organised crime, in particular migrant smuggling? Can an effective exchange of good practices be expected?**
- 2. What is the current practice for cooperation with Western Balkan countries?**
- 3. How can the countries of the Western Balkans increase their contribution to the exchange of operational information with EU countries and agencies?**
- 4. How can trust between law enforcement authorities in the EU Member States be strengthened with countries in the Western Balkans? How can reciprocity be further enhanced?**
- 5. What kind of specialised training and tools can be implemented by the EU Member States and the Western Balkan countries in combating migrant smuggling? What is necessary in order to strengthen this and how?**
- 6. Can the policy of insufficient sanctioning of the migrant smugglers and their helpers have the opposite effect in practice or encourage the smuggling/helping, and in what circumstances? How to deal with the negative effects of such policy? What is the judicial practice in sanctioning the smugglers and their helpers in the Member States?**
- 7. How to identify the high targets, the leader of organized crime group which are facilitating migrants smuggling along the Western Balkan Routs?**