COUNCIL OF THE EUROPEAN UNION

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CIREFI 41

NOTE

from : French Presidency
to : Strategic Committee on Immigration, Frontiers and Asylum
Subject: Action plan to improve the control of immigration

Like several of its partners France is facing a sharp increase in illegal immigration, reflected in a rise in the number of asylum applications (38% increase in 1999). This increase in immigration – from the successive waves in recent years (Iraqi Kurds in 1998, Kosovars in 1999 and immigration from the Balkans, Africa, China and the Middle East) affects Europe as a whole and calls for joint responses and the development of solidarity among States.

Much was done in the framework of Schengen cooperation to ensure joint control of the external borders, in particular through the establishment of a Committee on Evaluation and Implementation, which subsequently became a European Union Working Party. We believe, however, that still more needs to be done and that, on the basis of the balance sought by the Tampere Council, it is necessary to ensure that the European Union has the resources necessary for the effective control of its immigration.
France wishes to propose to its partners a European Union Action Plan, aimed at strengthening the management of external border controls by reinforcing the bases of European solidarity in this domain. The aim is not to adopt a formal text but to identify a number of areas in which operational cooperation can be strengthened among the Fifteen (or among a smaller group of volunteer States).

This project is two-fold, aiming to improve the information exchange, early warning and response system and to organise a network of officers responsible for immigration matters in the countries of origin.

I. Information exchange, early warning and response system

1. Improving the routine exchange of information in CIREFI

(a) Current situation

In its conclusions of 30 November 1994 (published in OJ C 274 of 19.9.1996) on the organisation and development of the Centre for Information Discussion and Exchange on the crossing of frontiers and immigration (CIREFI), the Council specified that CIREFI's tasks would be to collate, using standard forms, statistical information concerning legal immigration, illegal immigration and unlawful residence, facilitating of illegal immigration, use of false or falsified travel documents, and measures taken by competent authorities. On that basis it is to draw up regular and occasional situation reports commenting on trends, developments and changes. Another of CIREFI's tasks is to analyse the information compiled, draw conclusions and, when appropriate, give advice.
Improvements need to be made, particularly to the practical arrangements for exchanging statistics and factual information on the current state of illegal immigration and immigration networks, which takes place at the beginning of CIREFI/Mixed Committee meetings. Member States’ reports on the illegal immigration pressures presented at each meeting are too dissimilar to be summarised or used to demonstrate significant trends.

(b) Measures needed

At each meeting every delegation should make a summary — following a uniform model — and submit a written document. This would make it easier for the Presidency to present an analysis at the meeting itself, with the General Secretariat of the Council being responsible for the subsequent written summary and for distributing it to the relevant Council Working Parties.

The Presidency proposes using a standard format report containing statistical information, comparing data from previous months and the same period in the previous year in order to establish a “trend” (stability, increase or decrease), but also qualitative factual data which will enable a better assessment to be made of actual illegal immigration flows, the way they operate, and Member States’ responses.

A standard format report will be examined by CIREFI.
2. Early warning and rapid reaction system and network of contact points

It is vital that all the European partners concerned have real time access at an early stage and outside CIREFI meetings to operational information on potential migratory dangers and risks which require a significant response from States, so that they can take the most appropriate measures in good time.

(a) Current situation

In its conclusions of 30 November 1994 on the organisation and development of CIREFI, the Council noted that during the time between meetings of CIREFI, the national central units of the Member States concerned would exchange information directly at a multilateral or bilateral level in cases requiring immediate action. Information would be exchanged as far as possible using standard forms or as events dictated using an agreed layout.

This led to the introduction of a form under the Austrian Presidency setting out to speed up information exchange on current illegal migration phenomena, (11091/2/98 CIREFI 54 REV 2).

The aim was to set up a permanent, standardised communication framework enabling a Member State to report illegal migration phenomena to all the other Member States between CIREFI meetings. Transmission of information to predetermined contact points, using a single form, which was easily comprehensible irrespective of the national language, was the chosen communication means.
A network of contact points in the immigration services of the EU Member States was accordingly set up (Annex 2 to 11091/2/98 mentioned above), enabling *inter alia* direct, real time transmission of urgent operational information requiring a rapid response in the recipient country.

The following basic principle was established: the form is sent to the Council General Secretariat, which forwards it, initially untranslated, to the contact points, except in emergency situations, where the Member State concurrently informs the contact points and the General Secretariat.

Continuing work in this area, the German Presidency saw the adoption of a Council Resolution on the creation of an early warning system for the transmission of information on illegal immigration and facilitator networks (7695/99 CIREFI 20 MIGR 33).

This Resolution brought two major changes:

- the association of those applicant countries for accession to the European Union through whose territory much of the immigration takes place;
- the establishment of the principle of direct information between central authorities; the General Secretariat is merely notified.

However, at present it seems that little or unsatisfactory use is being made of the early warning system and the network of CIREFI contact points.
(b) **Measures needed**

- Investigate the reasons for this situation and how it can be remedied: in particular, the Member States seem to prefer bilateral information exchange, especially where liaison officers are in post, although the need to exchange, and, above all, to centralise and exploit information in this field is more important than ever before. While there is an undeniable need to maintain and strengthen bilateral relations, the fact remains that it should be possible to produce a real time overview of certain migratory phenomena benefiting all the Member States of the European Union as well as the countries associated with the system.

- Adapt the questionnaire (in accordance with Article 7 of the abovementioned Council Resolution, which provides that the suitability of the form will be kept under constant review) to widen the scope of information that ought to be disseminated, in particular information:

  * collected in the source and transit countries, especially via the network of liaison officers upstream;
  * on non-compliance by carriers;
  * relating to new modi operandi used by networks, especially when they enable them to bypass joint controls or take advantage of a lack of coordination between the Member States' various departments;
  * which indirectly reveals shortcomings or flaws in the chain of operations which constitute controls at the external borders (e.g. conditions governing the issue of visas).
Make provision for an information feedback procedure through which all the Member States could be informed of what measures were taken by the State(s) affected by the information disseminated.

In addition to its everyday use, the dissemination and exploitation of such information would be particularly useful:

* when a new State joined the area of free movement, to detect, where applicable, the impact on illegal immigration and to prompt any necessary adaptations;
* during exceptional periods of regularisation of the situation of foreigners by a Member State;
* in the event of a massive influx of immigrants.

(c) **Objective**

Implemented under the above conditions, this system should enable information to be exploited at several levels:

– each Member State that receives information about a threat at its borders or a weak link in its control arrangements must take the necessary steps immediately and on its own initiative to inform its partners;

– all the information should be the subject of an analysis of the events observed, their causes, their consequences and the measures taken.
— this information, which would be analysed, centralised and annotated by the General Secretariat liaising with the Presidency, should be forwarded (notably when a worrying migratory phenomenon arose) to the competent Council bodies, accompanied where appropriate by proposals.

3. **Operational mechanisms**

(a) **Decision-taking arrangements**

— **Any Member State** observing a rise in illegal immigration may raise the matter with the Presidency of the European Union. The Presidency will coordinate the Member States’ response and set the necessary measures in train.

— The Presidency will take the initiative with regard to practical steps, measures of solidarity between Member States, and the choice of the most appropriate forum for coordinating the Member States’ response:

* if necessary, where the phenomenon is having particularly widespread effects, a meeting at political level of Interior Ministers (a massive influx needing a political response or diplomatic steps vis-à-vis another Member State or a third country);

* establishment of a task force of heads of the national police or civil service operational departments responsible for immigration and controlling immigration, which will meet as and when necessary.
Depending on the geographical areas concerned and Member States’ desire for involvement, the proposed coordination would be organised at the Presidency’s initiative and in consultation with its partners, either at the level of the Fifteen Member States or at the level of those Member States which are decided to act jointly in a spirit of solidarity.

(b) *Examples of operational measures*

Principles: each Member State is responsible for controlling immigration at the Union’s borders. Member States may decide to call on European solidarity by seeking other Member States’ support when they find it difficult to fulfil that task.

Solidarity may mean sending reinforcements in staff or equipment, according to Member States’ possibilities and resources (vehicles, data processing equipment, detection equipment) or providing expertise (advice, training), but in no circumstances will it mean one Member State’s police being directly involved in implementing another Member State’s control procedures.

A primary aim is to build up, on a voluntary basis and according to modalities yet to be defined, a nucleus of Member States’ expertise and equipment that could be mobilised to support action at the external borders.

Should there be difficulties at any part of the EU’s external border, these resources would be brought into play on the initiative of the Presidency of the European Union and with the agreement of the State directly concerned.

The Schengen acquis contains the measures that could be applied in such circumstances:
— drafting of a situation report, to be updated as frequently as possible, in the framework of the task force of the chiefs of operational departments;

— contacts at both diplomatic and technical level with the countries of origin or transit, establishment of close cooperation with the competent departments of those States;

— implementation of in-depth checks at authorised border crossing points at external borders, with priority being given to those particularly used by immigrants;

— fullest possible surveillance of land and sea borders at authorised crossing points at the external borders, with priority being given to frontier zones affected by immigration;

— fullest possible surveillance, through the deployment of mobile units, of land and sea borders in the vicinity of authorised crossing points, within the country, and especially on transport routes that could be used for illegal immigration;

— checking on non-public areas in ports providing international links;

— undertaking by States to fingerprint all aliens who have entered their territory illegally and whose identity cannot be established beyond doubt; preservation of fingerprints in accordance with the data protection law;
- stepping up the immediate and systematic return of third-country nationals who have entered illegally (in accordance with the rules of national and international law);

- strengthening exchanges of information between Member States’ designated central contact points about the situation as it develops, the measures taken and persons apprehended, focusing particularly on organisations involved in smuggling persons and the routes used, in close cooperation with EUROPOL.

II. **Establishment of a network of liaison officers in countries which are sources of immigration**

1. **Present situation**

Under the Portuguese Presidency, remarkable progress was made in assessing the current distribution of the various types of liaison officers in third countries and Member States’ plans in that area.

The objective is to streamline the distribution of Member States’ officers in order to avoid an unjustified surplus presence in certain countries or - at the opposite extreme - a damaging absence in others. There is no intention to call into question the distribution or activities of officers under the present system; on the contrary, the aim is to seek new synergies by expanding that network and encouraging the gradual pooling of its resources.
Cooperation between officers present in the same country or even in the same region of the world must be strengthened in such a way as to expand such cooperation into mutual, reciprocal assistance. Hence, in countries where several officers from different Member States are stationed, exchanges of information must be stepped up and consideration given to increasing the complementarity of activities involving airlines, Member States' consulates and local partners (task sharing, replacements during leave, etc.).

A clear distinction must be drawn between the following cases:

- the presence of several liaison officers from different Member States: officers must cooperate with one another;

- a single Member State represented: that officer could represent the Member State's partners;

- no liaison officer: consultations should be held to appoint an officer if there is justification for doing so for the country concerned.

2. Measures necessary

The following measures will have to be taken in order to establish a European network of liaison officers:
(a) Constant updating on the state of the network of Member States’ representatives stationed in countries of origin and transit countries, distinguishing between:

- on the one hand, permanent systems, or at least medium-term assignments: liaison officers stationed with airlines, immigration liaison officers, liaison officers in third countries entrusted with tasks relating to the prevention of illegal immigration in addition to their general law enforcement duties, together with details of the officers concerned and the nature of their secondment (embassy, consulate, airline, local law enforcement agencies);

- on the other hand, assignments of limited duration performed over a short period (e.g. training in combating documentary fraud).

(b) On that basis, volunteer Member States must reach agreement as quickly as possible to enable certain liaison officers to represent other Member States in countries of common interest and carry out assignments on their behalf. Under such an agreement, certain Member States will agree to represent one another on a reciprocal basis and carry out activities in their mutual interests. Such a maximisation of resources should enable the network to be expanded more quickly.

The procedures for such cooperation may be extremely varied; they must be freely defined by the partner Member States in order to attain the defined objective under the most favourable and effective conditions.

In that connection, a case-by-case analysis will have to be conducted, taking account of local requirements, the characteristics of air links (in particular with Europe) and the resources available.
(c) A pilot Member State will be designated for each country of origin, on the basis of its presence and centres of interest, to ensure coordination between liaison officers and organise the necessary consultations.

Finally, Member States can still agree to carry out successive short-term activities in the same third country along the lines of the experiment conducted in 1999-2000 with ODYSSEUS financing by Germany, the Netherlands, France, Spain and Portugal in various countries in sub-Saharan Africa.

The tasks of such liaison officers will be made up of several elements: on the one hand, controls on embarkation in conjunction with officials in the country concerned, and on the other hand, cooperation with the local authorities in all areas relating to the management of migratory flows.