

MANAGEMENT STRATEGY IN THE AREA OF MIGRATION AND ASYLUM FOR EUROPEAN CROSS-BORDER SECURITY

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ABSTRACT

The security of contemporary Europe is under a serious threat. The migration crisis has created a serious challenge for the cohesion of the European Union, causing divisions and tensions between the member states and within their societies. The EU's passive policy deprived of a long-term strategy has proven to be ineffective. The crisis has shown the weakness of its institutions and member states in crisis situations. EU values have turned out to be inconsistent with the values of many member states, and they are the basis of a common migration and asylum policy.

The author analyses the migration crisis and presents solutions for the EU to stop it.

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INTRODUCTION

One of the most important objectives of the European Union is to create a space for freedom, security and justice without internal borders and with full respect for fundamental rights. To achieve this, coherent measures are taken in respect of the policy on asylum, immigration, borders, police and

judicial cooperation, in accordance with the treaties and relevant protocols. Today, the achievement of the said objective is seriously threatened by the migration crisis, the most severe one since the end of World War II. It is associated with the massive influx of immigrants and refugees from the Middle East, South Asia and Africa to Europe. In addition to the inhabitants of these regions, economic migrants have been coming to Europe also from Romania, Kosovo, Albania and Ukraine. There are essentially three main routes for refugees:

- the first – leading through the central part of the Mediterranean Sea; the route starts on the northern coasts of Libya or Egypt, and its destination are Italy and Malta,
- the second – leading through the eastern part of the Mediterranean Sea; the route is constantly evolving, but its starting point is usually the port of Mersin (Turkey), and it ends in Italy, Greece or Cyprus,
- the third – the land route through Turkey to Greece and Bulgaria.

The maritime route from Morocco or Algeria to Spain is less popular, but it also plays an important role.

The migration crisis broke out as a result of continuing civil war in Syria and protests related to the Arab Spring, which led to the fall of governments in Libya, Tunisia and Egypt. Countries that had been ruled with a heavy hand of dictators began to plunge into chaos. In some member states the situation has caused difficulties in maintaining effective border control, receiving the arriving migrants and conducting the migration procedures. Because of their location, Greece and Italy are particularly affected by the increased migration flows. Mass influx of immigrants has resulted in very serious problems of humanitarian, social, cultural, economic and political nature, and the cross-border security has never been so threatened.

The ongoing migration crisis has effectively caused disagreement between countries within the EU, both internally and externally. In this context, the members of the Visegrad Group have united to face the common problem of the European policy imposed by Germany. The situation requires the EU leaders to again raise questions about the nature of European solidarity and the future fundamental to the idea of a European Union without borders¹.

¹ More in: A. Wawrzusiszyn, *The Visegrad Group in terms of the contemporary cross-border threats*, "Journal of Modern Science," 01/32/2017.

LEGAL REGULATION OF MIGRATION

According to the Universal Declaration of Human Rights of 10 December 1948,² all human beings are born free and equal in dignity and rights, and everyone has the right to life, liberty and security of person. On the other hand, according to Art. 13, everyone has the right to freedom of movement and residence within the borders of each state, and the right to leave any country, including his own, and to return to his country. The above is confirmed by the International Covenant on Civil and Political Rights of 16 December 1966³, which states that everyone shall be free to leave any country, including his own.

Migration means mass movement, displacement (resettlement) of a population within a country or between different countries in order to change their permanent or temporary residence due to political, ethnic, religious, economic or other factors.

The legal standards protecting the migrants are included in ILO Convention No. 97 of 1949⁴ and Convention No. 143 of 1975⁵. According to these international agreements, discrimination in respect of nationality, race, religion or sex is not allowed. Legal immigrants should receive treatment no less favourable than that which the party applies to its own nationals in respect of remuneration, including family allowances, leaves, hours of work, etc. Each party to the Convention is obliged to suppress clandestine movements of migrants and illegal employment of migrants.

On 18 December 1990 by Resolution 45/158 the UN General Assembly adopted the International Convention for the Protection of the Rights of All Migrant Workers and Members of Their Families⁶. It entered into force on 1 July 2003. The purpose of the Convention is to protect mi-

² See http://www.unesco.pl/fileadmin/user_upload/pdf/Powszechna_Deklaracja_Praw_Czlowieka.pdf.

³ International Covenant on Civil and Political Rights, open for signature in New York, 19 December 1966, Journal of Laws of 1977, No. 38, item 167.

⁴ See Migration for Employment Convention of 1949, International Labour Organization Convention No. 97.

⁵ See Convention concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers of 1975, International Labour Organization Convention No. 143.

⁶ International Convention for the Protection of the Rights of All Migrant Workers and Members of Their Families, approved by the United Nations General Assembly in Resolution No. 45/158 of 18 December 1990.

grant workers by establishing norms for their protection in various areas as well as the obligations of the countries that send and receive migrants. The Convention defines the rights of all migrant workers (legal and illegal) and members of their families and, separately, other rights provided only to migrant workers and members of their families with regulated legal status. In addition, it contains detailed provisions on the application of the provisions of the Convention to specific groups of migrant workers and their families (frontier and seasonal workers).

The common term “refugee” means all persons forced, by circumstances beyond their control, to leave their place of residence⁷. According to the Geneva Convention, a refugee is any person who “owing to well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it”⁸.

Asylum seekers are persons seeking to be admitted into a country as refugees and awaiting decision on their application for refugee status. In case of a negative decision, they must leave the country, unless permission to stay is provided on humanitarian or other related grounds⁹. It should be noted that the term “illegal immigrant” has been used less and less in the discourse. The phrase was changed by the term “irregular migrant.” Irregular migration is the “movement of persons taking place outside the regulatory norms of the sending, transit and receiving countries. From the perspective of destination countries, it is entry, stay or work in a country without necessary authorization or documents under immigration regulations”¹⁰.

⁷ B. Wierzbicki, *Uchodźcy w prawie międzynarodowym*, Wydawnictwo Naukowe PWN, Warszawa 1993, p. 25.

⁸ The Convention Relating to the Status of Refugees, drawn up in Geneva on 28 July 1951, Journal of Laws of 1991, No. 119, item 515.

⁹ T. Reitano, L. Adal and M. Shaw, *Smuggled Futures. The Dangerous Path of the Migrant from Africa to Europe*, <http://www.globalinitiative.net/download/global-initiative/Global%20Initiative%20%20Migration%20from%20Africa%20to%20Europe%20%20May%202014.pdf> (accessed: 27.11.2015).

¹⁰ A. Lusenti and L. Watanabe, *The Challenge and Tragedy of Irregular Migration to Europe*, http://www.gicj.org/articlespictures/GICJ_Report_on_Migration_Crisis.pdf (accessed: 24.10.2015).

On 15 November 2000, the United Nations General Assembly adopted the Protocol against the Smuggling of Migrants by Land, Sea and Air¹¹. Smuggling of migrants means the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident. Each Party agrees to facilitate and accept, without undue or unreasonable delay, the return of a smuggled person who is its national or who has the right of permanent residence in its territory at the time of return. Each Party should take all appropriate measures to carry out the return in an orderly manner and with due regard for the safety and dignity of the person. Nothing in the Protocol affects the other rights, obligations and responsibilities of states and individuals under international law, including international humanitarian law, in particular, where applicable, the 1951 Convention and the 1967 Protocol relating to the Status of Refugees and the principle of nonrefoulement as contained therein

In the area of EU legislation, an attempt to define illegal migration appeared in a Communication from the Commission of the European Communities on Policy priorities in the fight against illegal immigration of third-country nationals of 19 July 2006, where the issue is usually associated with third-country nationals who illegally enter the Union European (including its air transit zones) by land, sea and air, often using false or forged documents, or with the help of organised criminal networks of smugglers and traffickers. It also applies to people who enter the EU legally with a valid visa or under a visa-free regime, but “overstay” or change the purpose of stay without the approval of the authorities. Lastly there are unsuccessful asylum seekers who do not leave after a final negative decision¹².

The above reasoning is supported by Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in member states for returning illegally staying third-country nationals who does not fulfil, or no longer fulfils the conditions of entry as set out in Article 5 of the Schengen Borders Code or

¹¹ Protocol against the Smuggling of Migrants by Land, Sea and Air supplementing the United Nations Convention against Transnational Organized Crime, adopted by General Assembly resolution 55/25 of 15 November 2000, Journal of Laws of 2005 No. 18 item 162.

¹² See Communication from the Commission on Policy priorities in the fight against illegal immigration of third-country nationals of 19 July 2006, Brussels, COM (2006) 402.

other conditions for entry, stay or residence in that Member State¹³. However, it should also be assumed that foreigners who have entered and are staying in a country without fulfilling the legal requirements against their will (have been smuggled) should not be considered illegal migrants, but rather victims of human trafficking¹⁴.

Smuggling of migrants is commonly considered a deliberate organisation or facilitation of illegal movement of people across state borders, made to achieve financial or other benefits. The practice is carried out with the consent of the smuggled person, but this does not rule out the fact that it is often accompanied by violence and inhumane and life/health threatening conditions.

In the European discourse, the analysed terms are more and more often replaced by alternative definitions, such as: unregulated migration, unregulated immigrant, immigrant/worker of unregulated status, undocumented immigrant, persons without documents, immigrant without documents or unauthorised immigrants. This discrepancy shows that the terminology in Community law should be standardized.

THREATS AND CHALLENGES FOR EUROPE

The UNHCR report indicates that more than 60% of migrants who decided to travel during the first five months of 2015 were from Syria, Somalia and Afghanistan – countries affected by war or ubiquitous violence, or from Eritrea, which is ruled by one of the most oppressive governments in Africa. Many people from sending countries, such as Nigeria, the Gambia, Senegal or Mali, decide to leave their homes to improve their economic conditions or to live in open societies¹⁵. About 2 million Syrians, mostly under temporary protection status, are estimated to be currently in Turkey. Another 300,000 persons, mainly from Afghanistan, Iraq and Pakistan, are residing unlawfully in Turkey while waiting to transit to seek refuge in the EU. More than 1.1 million Syrians are currently in Lebanon where the situation is increasingly unstable. Large numbers are

¹³ Article 3 (2) of Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in member states for returning illegally staying third-country nationals, OJ L 348, 24.12.2008.

¹⁴ More in: P. Lubiewski, *Nielegalna imigracja. Zagrożenia bezpieczeństwa*, part 1, Szczyt-no 2016, p. 17.

¹⁵ *The sea route to Europe: the Mediterranean passage in the age of refugees*, UNHCR, July 2015, <http://www.unhcr.org/5592bd059.pdf> (accessed: 24.10.2015).

also recorded in Jordan (630,000) and Egypt (130,000). As time goes on, the increasing difficulty of refugees currently living in the neighbouring countries of Syria – to find employment, make a legal living, and to send their children to school – is seen as one of the main factors for the rapid increase in migration to Europe¹⁶. It is also significant that in the wave of refugees there are fewer nationals of neighbouring countries of the European Union. This means that people are coming to Europe from distant parts of the world to seek asylum. The average distance between the country of origin and the receiving country has increased by 20% compared to the inflow of the 90s. In Italy it has tripled, whereas in Austria and Sweden it has increased by more than 50%. It should therefore be concluded that migrants are paying ever higher amounts to smugglers, but also that the return costs will increase¹⁷.

The migrant profile remains unchanged compared to the beginning of the crisis. Mostly adult men are coming to Europe. However, the increasing proportion of women (11%) and children (15%) reflects the fact that many migrants move to the EU with the intention of claiming asylum¹⁸.

Migrants who decide to travel to Europe are increasingly turning for help to organizations that specialise in the issue, which is why from the very beginning are vulnerable to abuse by criminal groups. According to Director of Europol¹⁹ Rob Wainwright only 10 percentage of migrants arriving in Europe do it on their own. The others use services to make it easier to reach the continent. In most cases they are provided by criminal groups. There are three main methods for payment: up front before departure, en route or by credit²⁰. Payment by credit involves advancement of smuggling fees to the migrant by a third party whom the migrant is obligated to pay back upon arrival at the destination country.

¹⁶ *Migration Policy Debates*, OECD, No 7 September 2015, <http://www.oecd.org/migration/Is-this-refugee-crisis-different.pdf> (accessed: 24.10.2015).

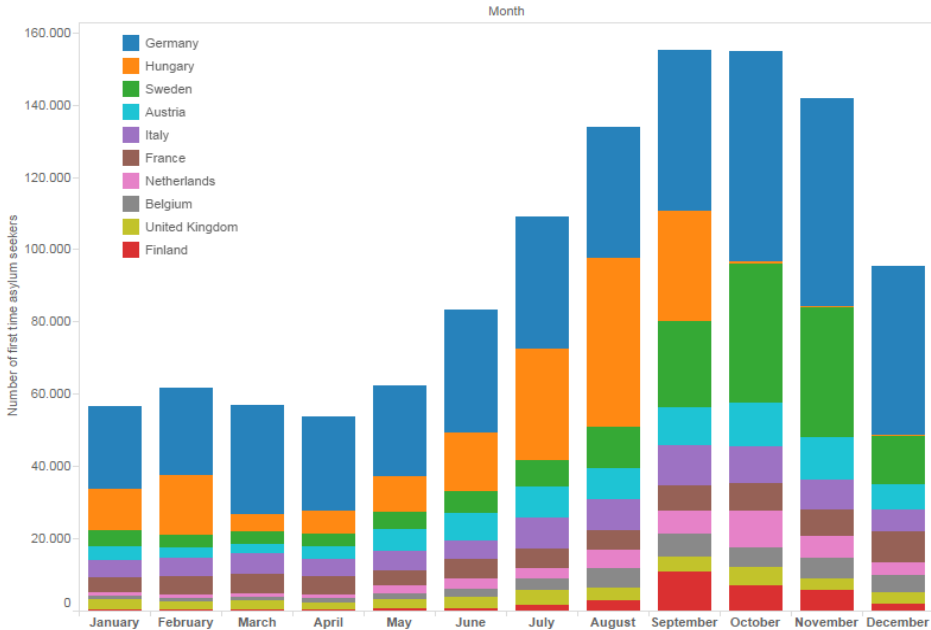
¹⁷ *Asylum quarterly report*, EUROSTAT, http://ec.europa.eu/eurostat/statistics-explained/index.php/Asylum_quarterly_report (accessed: 11.12.2015).

¹⁸ *Annual Risk Analysis 2013*, http://frontex.europa.eu/assets/Publications/Risk_Analysis/Annual_Risk_Analysis_2015.pdf (accessed: 24.10.2015).

¹⁹ Europol (European Police Office) – the EU's law enforcement agency, whose remit is to help make Europe safer by assisting law enforcement authorities in EU member countries.

²⁰ T. Reitano, L. Adal and M. Shaw, *Smuggled Futures. The Dangerous Path of the Migrant from Africa to Europe...*

CHART 1. ASYLUM APPLICATIONS IN THE MEMBER STATES IN 2015.



Source: https://pl.wikipedia.org/wiki/Kryzys_migracyjny_w_Europie [11.04.2017].

Today, illegal migration is a pressing problem of Europe. The majority of complaints come from Italy, Spain and Greece, but also many other countries complain. The smuggling routes are constantly evolving, and the conditions of trafficking are an affront to human dignity. The main beneficiaries are the smuggling gangs, which gain huge profits. The assessment of the scale of illegal migration to Europe is not possible due to its hidden nature, and the published statistics include only estimates²¹. Contemporary gangs of people smugglers operate almost like travel agents that arrange excursions for tourists. Some offer even two transports a week on vessels that take up to 200 people on board. The demand for such services is constantly growing. According to the data of the United Nations High Commissioner for Refugees, over one million migrants came to Europe by sea in 2015. The urgent phenomenon of illegal migration is closely linked to the structures of organized crime, the penetration and engage-

²¹ See A. Wawrzuś, *Illegal migration to modern Europe. Methods, tendencies, trends*, „Doctrina – Studia Społeczno-Polityczne” No. 13/2016.

ment of migrants in terrorist or extremist activities, or the transfer of ethnic and social conflicts to the territory of the country of residence. Serious threats have appeared: human trafficking, especially smuggling of women and children, sexual exploitation of women and children, trafficking in human organs, using both adults and children for work in inhumane conditions (e.g. begging), using them for crime such as robbery, mugging, drugs trafficking or terrorism. Illegal migrants function in permanent illegality and concealment, resulting in the exclusion of that category of foreigners from the state influence in the area of social, health, police care or integration programmes.

The most up-to-date and continuously improved method of operation of organised criminal groups is the forgery of documents: Schengen visas, identity cards, driving licenses, residence permits and passports, which are readily bought in various countries of the European Union, Africa, the Middle East and Asia. Quite a popular method for obtaining documents is the purchase of stolen or lost identity cards or other similar documents, which are then sent to their partners to produce documents that confirm the false identity. Finished products are offered to buyers in various countries. Counterfeiting organisations have headquarters in many countries and use professional equipment in their activity. Preparation of documents costs from EUR 100 to even 3 thousand²². The said practice was analysed at the meeting of the ministers of justice and interior in Amsterdam (25/01/2016). French Minister B. Cazeneuve declared that the Islamic State has established a real industry of false passports using the documents obtained during its operations in Libya, Iraq and Syria. On the other hand, Greek Minister N. Toskas mentioned the very difficult process of verifying identity on the basis of such passports, and even the best machines are of little help in identifying the documents²³.

One of the challenges in the current crisis is the large number of unaccompanied minors (UAM). Regardless of whether minors are considered to be seeking asylum, the state or local government unit in which they are identified is responsible for taking care of them. Even if minors come from countries where nationals are rarely granted the refugee status, they often apply for asylum anyway. 24 thousand minors, applied for asylum in

²² *Ibidem*.

²³ More in: <http://www.polishexpress.co.uk/europa-jest-bezradna-bojownicy-isis-przenikaja-przez-granice-niezauwazeni/> (accessed: 18.05.2016).

2014, which only 4% of all applicants. However, not all minors undergo the procedure. Only 24% of UAM applied for asylum in Italy; The situation is similar in Greece. As minors live in open centres, many of them leave them to reach their families that live in another European country. In Italy, one third of minors leave the centres immediately after arriving. There is a suspicion that some of them may become victims of crime. The situation is different in Sweden, where 4 thousand and 7.5 thousand UAM were registered in 2013 and 2014, respectively.²⁴ Unaccompanied minors are a challenge for the countries receiving refugees. Many of them come to Europe at the age of 16 or 17, often without formal education, which impedes their integration into the society.

But the biggest challenge for the European Union is its cross-border security. Border services have a problem in detecting criminals, especially those suspected of terrorism. The fears that some terrorists get across the borders in the crowd of thousands of refugees are now fully justified. Databases available to the immigration officials do not include information about terrorist ties, persons wanted by the police or those with criminal history. The big problem is the fact that many migrants do not have identity documents.

Muslim extremists living in Europe have become active on the basis of that trend. The real problem lies within: the catastrophic lack of effective policies on social justice, education, housing and employment for young Muslims in Europe. Marginalization gives rise to frustration, which in turn is further fuelled by the growing Islamophobia and the increasing popularity of belligerent right-wing political movements on the continent. This is evident by the fact that most of European jihadists come from poor environments; they are not quite well acquainted with the true teachings of Islam and have no prospects of improving their lives, so they become an easy prey to extremists²⁵.

²⁴ S. K. Mazur (ed.), *European Union and Migration: Opportunities and Challenges*, Europe Direct – Rzeszów European Information Point, Rzeszów 2015, p. 19.

²⁵ See Interview with Shlomo Ben-Ami (former Israeli Minister of Foreign Affairs), *Europa tworzy muzułmańską rebelię wewnątrz swoich granic [Europe creates a Muslim rebellion within its borders]*, <http://wiadomosci.wp.pl/kat,141202,title,Shlomo-Ben-Ami-Europa-tworzy-muzulmanska-rebelie-wewnatrz-swoich-granic,wid,18320207,wiadomosc.html?ticaid=116fb9> (accessed: 16.05.2016); <http://wiadomosci.onet.pl/swiat/panstwa-grupy-wyszehradzkiej-utworzyly-grupe-przyjaciol-schengen/qlxd7p> (accessed: 05.12.2015).

ACTIONS TAKEN BY THE EUROPEAN UNION

In 2011, the European Commission adopted the Global Approach to Migration and Mobility²⁶ establishing a general framework for the EU's relation with third countries in the field of migration (external migration policy and the framework for its comprehensive management of migration and mobility). It is based on four pillars of equal importance: organising and facilitating legal migration and mobility; preventing and reducing irregular migration and trafficking in human beings; promoting international protection and enhancing the external dimension of asylum policy; maximising the development impact of migration and mobility. The global reach is a priority, and the human rights of migrants are a fundamental issue.

In response to the migration crisis, the European Union has adopted new solutions in its migration and asylum policies.

In March 2014, the Commission published a new communication, in which it has presented its future programme for internal affairs titled "An open and secure Europe: making it happen"²⁷. It emphasized the need for a global approach to migration, making best use of legal migration, standards for those in need of protection, fighting illegal migration and effectively managing the borders, in particular: disruption of international crime networks, prevention of terrorism and addressing radicalisation and recruitment, raising levels of security for citizens and businesses in cyberspace, increasing Europe's resilience to crises and disasters, and building internal security in a global context.

On 13 May 2015 the European Commission presented the European Agenda on Migration²⁸. Its main purpose is to develop a comprehensive approach to migration and its integration into all areas of both internal and external policy. It includes a comprehensive plan to improve migration management in all aspects.

²⁶ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, The Global Approach to Migration and Mobility, COM 2011/0743.

²⁷ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, An open and secure Europe: making it happen, Strasbourg, 11/03/2014 COM (2014) 154.

²⁸ http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/background-information/docs/communication_on_the_european_agenda_on_migration_pl.pdf (accessed: 30.04.2016).

On 27 May 2015, the Commission already proposed the first implementation packages to the European Agenda on Migration, including the principle of a temporary relocation mechanism to provide assistance to Italy and Greece, and recommendations for the resettlement program. In addition, the Commission presented the EU Action plan against migrant smuggling, Guidelines on Fingerprinting, and started A public consultation on the future of the Blue Card Directive²⁹.

Due to the increasing influx of migrants to Italy, Greece and Hungary, in September 2015, the Commission presented another implementation package. The package included: the extraordinary relocation from Italy, Greece and Hungary of 120.000 asylum seekers who needed immediate international protection, establishing a permanent crisis relocation mechanism for all member states, preparation of a European list of safe countries of origin, the action plan on return and the “Return Handbook”.

On 23 September 2015, at an extraordinary meeting of the European Council, the leaders made decisions on some of the most pressing issues and discussed long-term challenges, stressing the need to cooperate in a spirit of solidarity, while applying the existing legislation, including the Dublin Regulation and the Schengen acquis. On October, further course of action was determined at another meeting of the European Council, including cooperation with countries of origin and transit (agreement on the EU-Turkey Joint Action Plan), strengthening the border protection within the European Union by establishing an integrated border management system, and extending Frontex’s mandate.

On 12 November 2015 an informal meeting of the EU heads of state or government was held in Valletta, preceded by an international summit on migration attended by the leaders of African countries and representatives from the European Union. The outcome of the summit was the action plan (an emergency trust fund for Africa was launched³⁰).

²⁹ EU Blue Card – is a temporary residence permit to perform work in professions requiring high qualifications. It is designed to facilitate the employment of highly qualified foreigners coming from outside the EU. The advantage of this solution is that the permit for temporary residence and for work are provided under a single procedure. An important condition is the amount of the foreigner’s salary, which can not be lower than the equivalent of 150% of the average monthly salary in the national economy in the previous calendar year.

³⁰ The EU’s Emergency Trust Fund for stability and addressing root causes of irregular migration and displaced persons in Africa (€ 1.8 billion from the EU budget and

On 17–18 March 2016, the European Council continued the debate on a strategy to overcome the migration crisis, and at the next EU-Turkey summit, an agreement was achieved to stop the flow of migrants to Europe through Turkey, disrupt the smuggling activities and to offer an alternative solution to migrants. It was determined that starting from 20 March 2016 all unregulated migrants from Turkey to Greece will be sent back to Turkey, while for each Syrian sent back to Turkey, the EU will take in another Syrians from that country. In addition, the European Union declared to speed up the disbursement of the initially allocated €3 billion to Turkey. Once these funds are about to be used in full, the EU will mobilise additional €3 billion if the commitments are met.

In April 2016, the European Commission presented its guidelines for the reform of the Common European Asylum System (CEAS). The Communication³¹ set out the steps to be taken towards a more humane, fair and efficient European asylum policy. Two directions of action were identified: – towards stable and balanced asylum policy – introducing structural changes to the Common European Asylum System in the following areas: establishing a balanced and fair system for determining the Member State responsible for asylum seekers, strengthening Eurodac³², achieving greater coherence of the EU asylum system, preventing secondary flows within the European Union, defining new powers of the EU Agency for Asylum, – ensuring and improving legal and safe migration pathways – increasing the number of legal channels to enable people in need of international protection to arrive in the EU in an orderly, managed, safe and dignified manner, and strengthening cooperation with key third countries of origin to ensure better and more comprehensive management of migration and mobility.

the European Development Fund) is an innovative mechanism that enables a common, complementary and flexible response to various aspects of emergency situations. Many African countries on the main migration routes from Africa to Europe benefit from the Fund. These countries are among the most unstable and most affected by migration-related challenges.

³¹ Communication from the Commission to the European Parliament and the Council towards a Reform of the Common European Asylum System and Enhancing Legal Avenues to Europe, Brussels, 6.4.2016 COM (2016) 197.

³² Council Regulation (EC) No 2725/2000 of 11 December 2000 concerning the establishment of ‘Eurodac’ for the comparison of fingerprints for the effective application of the Dublin Convention.

On 7 June 2016, the European Commission presented an Action Plan to support member states in the integration of third-country nationals and their economic and social contribution to the EU, as well as a legal proposal to reform the rules on highly skilled migrants coming to the EU to work (the above-mentioned Blue Card Directive).

On 14 September 2016, the European Council approved a regulation establishing the European Border and Coast Guard³³. It started its operations on 6 October 2016, replacing the European Agency for the Management of Operational Cooperation at the External Borders of the EU member states (Frontex). The new Agency retained the short name Frontex, but its mandate has been greatly extended. The European Border and Coast Guard was set up by the European Border and Coast Guard Agency and the government authorities of the member states responsible for border management, including coast guards in respect of their border control tasks³⁴. The main objective of the European Border and Coast Guard is to ensure an effective operation of the EU's integrated border management system, and its main task is to establish an operational strategy for border management and coordinate assistance from all member states.

On 7 December 2016, the Permanent Representatives Committee (Coreper) approved a compromise text agreed with the European Parliament on an amendment to the Schengen Borders Code³⁵. The amendment obliges member states to carry out systematic checks on all persons, including persons enjoying the right of free movement under EU law (i.e. EU citizens and members of their families who are not EU citizens) when they cross the external border against databases on lost and stolen documents. It will also be verified that those persons do not represent a threat to public order and internal security. This obligation shall apply at all external borders (air, sea and land borders), both at entry and exit.

³³ Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard and amending Regulation (EU) 2016/399 of the European Parliament and of the Council and repealing Regulation (EC) No 863/2007 of the European Parliament and of the Council, Council Regulation (EC) No 2007/2004 and Council Decision 2005/267/EC.

³⁴ More in: J. Piwowarski, A. Wawrzusiszyn, *Towards More Secure Borders European Border and Coast Guard*, "Journal Science & Military" 1/2017.

³⁵ Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code).

On 3 February 2016, at the informal summit the leaders of the European Union adopted the Malta Declaration³⁶. It sets out how to reduce the influx of migrants through the Central Mediterranean route and disrupt people smuggling. The leaders also decided to increase cooperation with Libya, as in 2016 90% of migrants came to Europe from that country.

On 7 February 2017, (Schengen), the Council adopted a recommendation allowing for the prolongation of temporary internal border controls. Austria, Germany, Denmark, Sweden and Norway should prolong proportionate temporary border controls for a maximum period of three months at specific sections of their borders. They should also ensure that internal border controls are only carried out as a last resort when other alternative measures cannot achieve the same effect.

SUMMARY

The current migration crisis in Europe was inevitable, and the ongoing armed conflicts in Afghanistan, Iraq, Syria or Libya have only accelerated the migration processes and population movement towards the richest European countries. The current form of combating the crisis has failed. The summits, relocation programs, or calls for solidarity by the EU commissioners have not helped. The implementation of the management strategy in the area of migration and asylum is of key importance to remedy the situation, i.e. close coordination between the border and police services of the member states, effective operation of the European Border and Coast Guard (effective border control), close cooperation with the European Union's neighbours, more active diplomacy and commitment to conflict prevention in the regions from which the refugees come from.

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³⁶ The Malta Declaration of members of the European Council on the external aspects of migration: addressing the Central Mediterranean route, Valletta, 3 February 2017.

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