

16 February 1993

**Final Communiqué of the Ministerial Conference to Prevent  
Uncontrolled Migration.**

On invitation of the Government of the Republic of Hungary the competent ministers of Albania, Austria, Belarus, Belgium, Bulgaria, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary; Ireland, Italy, Lithuania, Latvia, Luxembourg, Moldavia, Netherlands, Norway, Poland, Portugal, Romania, Russia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Turkey, Ukraine, the United Kingdom, or their representatives, met on February 15<sup>th</sup> and 16<sup>th</sup>, 1993 in Budapest to hold a conference on the implementation of measures to deal with uncontrolled migration.

REFERRING to the Final Communiqué of the Ministerial Conference on European Co-operation to prevent uncontrolled migration from and through Central and Eastern Europe which met in Berlin on 30/31 October 1991 and which has formed a Working Party with the task of rapidly developing proposals for implementing measures decided upon by this Conference.

REITERATING the importance of freedom of movement throughout Europe;

REITERATION further the respect for human rights and in particular the European Convention on Human Rights;

UNDERLINING their desire to respect the obligations arising from the Geneva Convention of 28 July 1951 on the Status of Refugees and the New York Protocol of 31 January 1967;

NOTING that illegal immigration constitutes a threat to public security and stability, promoting criminality and illegal and clandestine employment;

CONDEMNING the international operation of illegal immigration networks, which constitute a particularly harmful form of criminality;

CONFIRMING the responsibility of all countries to prevent illegal immigration;

TAKING NOTE of the report presented by the Working Party for the Development of Proposals for Implementing Decisions Taken by the Berlin Conference to Prevent Uncontrolled Migration.

BEING AWARE that the following recommendations should be implemented according to the constitutional provisions and basic principles of the legal system of each state;

BEING FURTHER AWARE that the execution of some of these recommendations depends on the financial means of states concerned and that some of them and in particular the new democracies in Central and Eastern Europe face an extremely difficult economic situation and will require appropriate assistance for this purpose;

RECOGNISING that illegal migration has become a worldwide phenomenon, and therefore expecting that the following recommendations should be executed not only by the Participating States but by all states concerned in a spirit of international solidarity;

**1. Concerning the criminalisation of smuggling of illegal migrants**

DEPLORING the damage caused by smuggling of illegal migrants to individual persons as well as to the community as a whole;

RECOGNISING the negative influence of smuggling of illegal migrants in relation to employment;

NOTING in this connection the resolution of ECOSEC 1991/35 of 31 May, 1991;

NOTING that smuggling of illegal migrants has the most harmful social and economic effects comparable to those which slavery had in the past and therefore should be considered as a crime in all countries

#### RECOMMEND

1.

- a) That it should be a criminal offence to smuggle or to attempt to smuggle illegal migrants; and that this should include the instigation and the aiding and abetting of the offence.
- b) That particular consideration should be given to offences out for reward, and to offences carried out in an organised way.

2.

- a) That it should be possible to confiscate direct or indirect proceeds obtained as a result of smuggling of illegal migrants.
- b) That it should be possible to confiscate means of transport such as motor vehicles, ships or aircrafts which are owned by smugglers of illegal migrants or their accomplices and which are used for smuggling of illegal migrants, provided that such confiscation is consistent with reasonable principles.

3. That measures should be taken to combat the employment of those known to have entered or remained illegally or those whose immigration status does not allow them to work.

**2. Concerning mutual assistance in criminal matters for the prosecution of smuggling illegal migrants**

NOTING that smuggling of illegal migrants by its very nature is a border crossing operation, which can be prosecuted effectively only by if mutual assistance between all competent authorities concerned is guaranteed

RECOMMEND

1. Where possible States should become Parties to the European Convention on Extradition of 13 December 1957 and the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959.
2. States which cannot become a Party to these European Conventions should consider concluding such bilateral agreements or adopting such national measures as will allow them to provide on a reciprocal basis the necessary mutual assistance for the prosecution of those smuggling illegal migrants.

**3. Concerning the establishment of special units and services to combat the activities of illegal migration networks**

NOTING that increased control of the activities of illegal migration networks should be implemented above all by means of special police and other control units and services in accordance with a joint tactical concept

RECOMMEND

that these units should

1. pursue, in close co-operation with all branches of the police and other competent authorities,
  - a) individuals or criminal organisations instigating , aiding and abetting illegal migration (activities of illegal migration networks);
  - b) offences related to illegal employment and unlawful hiring out of workers;
  - c) criminal offences in connection with the preparation and implementation of the above mentioned punishable offences, in particular the falsification of documents;
  
2. be provided with an organisation and structure suited to fulfil their tasks; while the decision on such matters will be the responsibility of national governments, it should nevertheless be the aim to introduce similar structures throughout Europe. Model elements might be
  - a) a component for the collection and analysis of information,
  
  - b) a component for “surveillance and investigation”, and
  
  - c) a component responsible for the apprehension of offenders;
  
3. apply operational tactics that are geared to the particular *modus operandi* of the perpetrators, inter alia by acting along the lines developed for combating organised crime;
  
4. be provided with modern equipment in particular sophisticated compatible communication technology which will allow rapid co-operation throughout Europe;
  
5. consist of staff having police and/or other appropriate training, skills and knowledge and experience in the prevention of illegal entry and unlawful employment.

#### **4. Concerning exchange of information on illegal migration**

NOTING that exchanges of information including personal information play an indispensable part in combating illegal migration

RECOMMEND that exchange of information should be promoted and facilitated with due respect to the constraints of national laws and taking into account arrangements already in force according to the following principles:

##### Contacts

1. There should be a central contact point within each state for the exchange of information about illegal migration matters.
2. Personal contacts between officers in charge should be facilitated and increased, in particular by exchanging officers for training or other purposes with a view to improving exchange of information.

### Exchange of non- personal information

3. Exchanges of non-personal factual information may be of a formal or informal but structured) nature but in either case it is most important that information is exchanged quickly. Information should be exchange about:

- a) Countries of origin, routes, methods of illegal entry and exit used;
- b) Transit stations, border crossing points and the main types of means of transport used;
- c) That nationalities of the smugglers and illegal migrants involved and any emerging trends about those nationalities;
- d) Means and methods for the forgery or falsification of travel or identity documents and residence permits.

4. Irrespective of the continuing exchanges of information under item 3, states should also provide at six monthly intervals factual information (broken down by nationality) especially concerning the number of persons refused entry to or exit from their territory, discovered at points of entry or exit with forged or falsified documents, the number of people detected after entering illegally, the number of traffickers identified and the number of illegal migrants which they have smuggled or attempted to smuggle.

### Exchange of personal information

5. States should exchange personal data concerning persons who are known to be or are suspected on good grounds to be involved in organized illegal migration. To this end, in so far as they have not already done so, they should lay down data protection laws and, where necessary, international instruments which are consistent with the principles of the Council of Europe convention of 28 January 1981 and which enable the States to ratify this Convention as soon as possible, if they have not done so already.

## Training

6. Border-control and other officers with responsibility for combating illegal migration and traffickers should be properly trained and equipped. States should provide training not only to their own officers but also to others with whom there is a relevant relationship.

### **5. Concerning procedures and standards for the improvement of control at the border**

NOTING that illegal migration is based in many cases on travel without a valid travel document or on the use of counterfeit or falsified travel documents;

HAVING RECOGNISED that legal border traffic does not give rise to significant problems in the context of illegal migration on;

WITHOUT INTERFERING in substantive national or international regulations regarding entry or exit of persons

### RECOMMEND

effective procedures for the discovery and prevention of illegal entry including illegal stay on the pretext of tourism, studies or business visits according to the following principles:

1. Subject to the particular circumstances, border control should generally concern the following matters:
  - a) legitimate possession of authentic recognized and valid travel documents;



- b) legitimate possession of valid visa where necessary;
- c) in case of residence abroad, proof of right of residence;
- d) possession of documents required for continuation of journey;
- e) evidence of possession of funds sufficient for the purpose of stay and return;
- f) examination of the basis of the lists of wanted and unwanted person or other relevant information;
- g) the question whether the person is a threat to public order and security.

2. Further principles to be applied in case of doubt or suspicion:

- a) detailed examination of the authenticity and validity of documents by using appropriate technical equipment and testing the credibility of the statements made by enquiring into the projected route, objects in the travellers possession etc.;
- b) vehicle and baggage inspection;
- c) checking of annotations by border authorities in passport (entry and exit stamps, etc.)
- d) in the case of entry for study purposes, checking of appropriate documentation which provides evidence of students status (student card, proof of matriculation, proof of registration, etc.)

- e) in the case of entry for purposes of employment evidence (work contracts, work permits, etc.) should be sought in order to prove that the person seeking entry is authorized to be employed in the country of destination;
- f) in the case of entry as a tourist or other short- term visitors status may be proved inter alia by hotel bookings, letters of invitation, possession of return ticket(s), possession of adequate funds;
- g) in case of participation in cultural, sports, scientific or religious events, or in the case of cures in health resorts etc., appropriate evidence in the form of invitations, reports and certificates, etc. should be sought.

3. Measures and Consequences should include:

- a) refusal of entry of foreigners not meeting conditions for entry;
- b) the power to retain objects used e.g. documents and means of transport and items illegally held;
- c) the surrender of suspects to the competent authorities.

4. Material to be made available to border officers:

- a) They should receive updated information on forgeries and high risk groups and on travel documents and visa regulations;
- b) appropriate technical devices for examining travel documents.

c) information on obligations arising from the Geneva Convention of 28 July 1951 relating to the status of refugees including the New York protocol of 31 January 1967.

5. Introduction of travel documents in line with relevant international standards incorporating safeguards against forgery.

## **6. Concerning readmission agreements**

NOTWITHSTANDING the need in appropriate circumstances to be able to remove a person to the country from which he arrived;

CONSIDERING the importance of rapid readmission of illegal immigrants to their country of origin, for the effective prevention of smuggling of illegal migrants;

RECOGNISING the need for bilateral or multilateral agreements allowing for rapid readmission;

RECOGNISING the need for the necessary facilities to be provided for this purpose;

TAKING NOTE on the one hand of the present absence of a comprehensive system of readmission agreements and on the other of the Readmission Agreement between Poland and the Schengen Countries of 29 March, 1991, as an example of a multilateral agreement concerning their admission of illegal immigrants.

RECOMMEND

## RE-ADMISSION AGREEMENTS

1. Insofar as re-admission agreements do not already exist, consideration should be given to establishing them with the all appropriate States. Where possible, such agreements should be multilateral, but where this is not possible bilateral agreements should always be considered. Consideration should be given to preparing agreements in a standard format. In the case of multilateral agreement, these might be along the lines of that between Poland and the Schengen States or at least reflecting the principles contained therein, with such adaptations as appear necessary to taken account of national situations and practical experience of that agreement.
2. Such agreements should be on a basis of equality of all countries and provide also for the necessary exchange of persons data with due regard to privacy regulations, as well as for the possibility of transit to the country of origin which is primarily responsible to readmit illegal migrants.
3. To the extent that those concerned have no right of residence in the country to which They are sent, that readmission agreements should provide that illegal immigrants who are readmitted should be returned without delay to their country of origin or to the country where their journey began.
4. Cooperation in organising the transport of illegal migrants to be readmitted to their country of origin or last stay in particular into countries which are far away.

### **7. Concerning securing of external borders outside authorized border crossing points**

HAVING RECOGNISED the importance of intensification of the surveillance of the borders outside authorized border crossing points for the prevention of illegal migration;

NOTING that the practical arrangements for securing borders will be for the States to determine and will need to take account of such matters as the geographical situation and the nature and extent of illegal migration to be combated;

#### RECOMMEND

the establishment of mobile surveillance forces according to the following principles:

The mobile surveillance forces should in principle

1. exercise their function not in the form of preventive routine patrols aimed at collecting random intelligence, but rather on the basis of targeted action to apprehend would- be migrants;
2. be on duty 24 hours-a- day and operate in permanent contact with the corresponding authorities on the other side of the border, with cooperation going even as far as extensive work- sharing;
3. have a personnel strength which is to be determined by taking into account the topographic conditions, traffic connections and border police aspects for each individual border section which may be categorized according to their relevance under surveillance aspects. In this regard the following classification of individual border sections might be introduced:
  - a) sections of particular relevance from the border control point of view,
  - b) sections of relevance from the border control point of view,
  - c) sections of little relevance for the border control point of view;

4. perform their tasks at sea borders by using patrol boats or appropriate helicopters without, however, dispensing with the use of operational forces on land whose mission primarily consists of apprehending illegal migrants reported by the airborne surveillance forces;

5. be integrated into a close network of telephone, radio, telex and other connections for coordinating their activities, use highly efficient equipment- in particular in relation to vehicles and means of communication- which should be harmonized step by step on the basis of an all- European standard.

## **8. Concerning the obligation of transport operators to prevent illegal migration**

CONFIRMING the importance of the relevant provisions in annex 9 to the Convention on international Civil Aviation 1947 (The Chicago Convention) with regard to the measures for the prevention of transportation of inadequately documented passengers;

STRESSING the need to co-operate with carriers for example within the framework of IATA in order to deal with the problem of inadmissible passengers

### RECOMMEND

1. That in accordance with standards 3.37 and 3.37.2 of annex 9 to the Convention on International Civil Aviation 1947 (the Chicago Convention) immigration authorities shall provide advice and assistance to airlines in preparing and implementing appropriate measures to prevent the transportation of inadequately documented passengers. And participants in this regard in co-operation with the airline in training programmes for check-in personnel and other appropriate staff members at airports that experience difficulties with the transportation of inadequately documented passengers as established by IATA;

2. That care be taken that airlines check passengers at airports of departure to establish whether they carry the requisite travel documents for entering the country of destination and/or transit and provide sanctions to be imposed on airlines which transport aliens who are not in possession of those documents into the sovereign territories of their nations; a corresponding rule should apply to carriers which transport aliens by sea, or by land, such carriers should also be given advice and assistance with a view to ensuring that only properly documented passengers are carried.