European Council

Brussels, 15 December 2016
(OR. en)

EUCO 34/16

CO EUR 10
CONCL 5

COVER NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	European Council meeting (15 December 2016) – Conclusions

Delegations will find attached the conclusions adopted by the European Council at the above meeting.

I. MIGRATION

External dimension

1. The European Council recalls its October conclusions concerning the Eastern Mediterranean route. It reiterates its commitment to the EU-Turkey statement and underlines the importance of a full and non-discriminatory implementation of all aspects. It also renews its pledge to continue support for the countries along the Western Balkans route. It endorses the Joint Action Plan on the implementation of the EU-Turkey statement elaborated between Greece and the Commission and welcomes the fact that Greece has already taken first steps towards its implementation. The European Council calls upon all Member States to ensure speedy implementation of the Joint Action Plan.

2. The new Partnership Framework of cooperation is an important tool for addressing illegal migration and its root causes, particularly with regard to the Central Mediterranean route. The European Council welcomes the progress on implementation of the compacts with five African countries of origin or transit and the growing ownership in the partner countries. In the light of this experience, additional compacts or other forms of cooperation could be envisaged, taking into account the resources available. The objectives of the Partnership Framework set out by the European Council last June should be mainstreamed into other external instruments and policies of the EU and its Member States. The European Council calls upon Member States to continue and step up their engagement under the Partnership Framework and will keep progress on stemming the flows and improving return rates under close review.

3. In order to reinforce the implementation of the Valletta Action Plan and the Partnership Framework, the agreement reached in the Council on the European Fund for Sustainable Development and on the EIB External Lending Mandate should be followed by swift adoption of the relevant legislation. In this respect, the European Council welcomes the fact that the EIB has started to implement its Resilience Initiative for the Western Balkans and Southern Neighbourhood.

4. The European Council underlines the need to enhance support for the Libyan coastguard, including through EUNAVFOR MED operation Sophia, so as to increase its capacity to prevent the loss of life at sea and break the business model of smugglers. In parallel, initiatives need to be taken to offer assisted voluntary return opportunities to migrants stranded in Libya and curtail dangerous journeys.

5. The European Council recalls the importance of adequate resources being put at the disposal of the European Asylum Support Office (EASO) and the European Border and Coast Guard. It welcomes the fact that EASO will start recruiting dedicated staff to ensure a stable and sustainable capacity. It also reiterates the need to remain vigilant on other routes, including in the Western Mediterranean, so as to be able to rapidly react to developments.

Internal dimension

6. The effective application of the principles of responsibility and solidarity remains a shared objective. Sustained efforts over the past months to review the Common European Asylum System have shown some areas of convergence, while other areas require further work. Building on this work, the Council is invited to continue the process with the aim of achieving consensus on the EU's asylum policy during the incoming Presidency.

7. Member States should further intensify their efforts to accelerate relocation, in particular for unaccompanied minors, and existing resettlement schemes.[1]

[1] This is without prejudice to the position of Hungary and Slovakia, as contained in the Court proceedings launched relating to Council Decision n°2015/1601, and to the position of Poland, which has intervened in support of the applicants.

II. SECURITY

Internal security

8. The European Council reaffirms its commitment to the implementation of the European Union Internal Security Strategy 2015-2020. The political agreement between the co-legislators on the Counter-Terrorism Directive is an important step and should be followed by swift adoption of the proposals on firearms and on anti-money laundering and implementation of new passenger name record (PNR) legislation. The European Council calls for effective cooperation with electronic service providers based inside and outside the EU.

9. The European Council welcomes the agreement on the revised Schengen Borders Code enforcing systematic controls on all travellers crossing EU external borders and calls for its swift implementation by the Member States, while taking into account specific situations of some Member States. The co-legislators should agree by June 2017 on the Entry/Exit System and by the end of 2017 on a European Travel Information and Authorisation System to ensure that visa-exempt travellers are screened systematically. It also calls for continued delivery on the interoperability of information systems and data bases.

External security and defence

10. Europeans must take greater responsibility for their security. In order to strengthen Europe's security and defence in a challenging geopolitical environment and to better protect its citizens, confirming previous commitments in this respect, the European Council stresses the need to do more, including by committing sufficient additional resources, while taking into account national circumstances and legal commitments. For Member States which are also members of NATO, this is in accordance with NATO guidelines on defence expenditure.
The European Council also calls for reinforcing cooperation in the development of required capabilities as well as committing to making such capabilities available when necessary.
The European Union and its Member States must be able to contribute decisively to collective efforts, as well as to act autonomously when and where necessary and with partners wherever possible. The European Council looks forward to a comprehensive revision of the Athena mechanism, by the end of 2017.

11. The European Council endorses the Council conclusions of 14 November and 17 October 2016 on implementing the EU Global Strategy in the area of Security and Defence which sets the level of ambition of the EU. It calls for their comprehensive follow-up by the High Representative and Member States. In particular, further to the Council conclusions, the High Representative will present proposals in the coming months as regards the development of civilian capabilities, the parameters of a Member State-driven Coordinated Annual Review on Defence, the process of developing military capabilities taking into account Research and Technology (R&T) and industrial aspects, the establishment of a permanent operational planning and conduct capability at the strategic level, the strengthening of the relevance, usability and deployability of the EU's rapid response toolbox, elements and options for an inclusive Permanent Structured Cooperation based on a modular approach and outlining possible projects, and the covering of all requirements under the Capacity Building in Security and Development (CBSD). In this context, the European Council calls on the co-legislators to work speedily on the Commission proposal on CBSD with a view to reaching agreement in the first half of 2017.

12. The European Council welcomes the Commission's proposals on the European Defence Action Plan as its contribution to developing European security and defence policy, stressing the importance of fully involving Member States, and calls on all relevant actors to take work forward. The Council is invited to rapidly examine the related Commission proposals. The EIB is invited to examine steps with a view to supporting investments in defence research and development activities. The Commission is also invited to make proposals in the first semester of 2017 for the establishment of a European Defence Fund including a window on the joint development of capabilities commonly agreed by the Member States.

13. The European Council urges swift action to follow up on the Council conclusions of 6 December 2016 implementing the Joint Declaration signed in Warsaw by EU and NATO leaders, avoiding duplication and ensuring complementarity between EU and NATO, as regards hybrid threats, maritime issues, cyber security, strategic communication, defence capabilities, defence industry and research, exercises, and defence and security capacity-building.

14. The European Council calls for the work on external security and defence to be taken forward speedily and asks the Council to report back in March so that the European Council can review progress. It will provide further strategic guidance in June.

15. The European Council will keep the issues related to security and defence on the agenda, with a view to regularly assess progress and determine, on that basis, appropriate strategic and political priorities.

III. ECONOMIC AND SOCIAL DEVELOPMENT, YOUTH

16. The European Council welcomes the agreement reached in the Council on the extension of the European Fund for Strategic Investment (EFSI), which should be adopted by the co-legislators in the first half of 2017. It also notes that the Council is now ready to engage in negotiations with the European Parliament on the modernisation of Trade Defence Instruments.

17. It reiterates the importance of the various Single Market strategies and the Energy Union, which should be completed and implemented by 2018. By then, certain key issues need to be resolved.[2] It welcomes the progress achieved so far and urges all Institutions to build on this momentum and further increase the level of ambition notably in the vital areas of services and the Digital Single Market, ahead of the March 2017 European Council. It calls for removing remaining obstacles within the Single Market, including those hampering the free flow of data.

18. The European Council calls for the continuation of the Youth Guarantee and welcomes the increased support for the Youth Employment Initiative. It also calls for work to be taken forward on the recent Commission initiatives dedicated to youth, including those on mobility, education, skills development and the European Solidarity Corps.

19. The European Council calls on the Council and the Commission to evaluate the impact of mainstreaming industrial policy into the EU strategic initiatives and to consider concrete action to strengthen and modernise the industrial base of the Single Market.

[2] For Poland, this means i.a. freedom to determine its energy mix and ensuring security of energy supply.

20. The European Council underlines the need to complete the Banking Union in terms of reducing and sharing risks in the financial sector, in the appropriate order, as set out in the Council conclusions of 17 June 2016 on a roadmap to this effect. In that context, the European Council calls on the Council to rapidly examine the recent Commission proposals to increase resilience in the financial sector.

IV. CYPRUS

21. Following a presentation by the President of the Republic of Cyprus on the negotiations on a Cyprus settlement, the European Council reiterated its support to the ongoing process for the reunification of Cyprus. The EU, taking into account that Cyprus is and will remain a member of our Union after the Settlement, stands ready to participate at the Geneva Conference on Cyprus on 12 January 2017.

V. EXTERNAL RELATIONS

Ukraine

22. The European Council reconfirms its commitment to international law and the territorial integrity of Ukraine as well as the conclusion of the EU-Ukraine Association Agreement, including the establishment of a Deep and Comprehensive Free Trade Area. The aim of association agreements is to support partner countries on their path to becoming stable and prosperous democracies, and to reflect the strategic and geopolitical importance the European Union attaches to the regional context. Therefore, completing the ratification process remains a crucial EU objective.

23. After having carefully noted the outcome of the Dutch referendum on 6 April 2016 on the bill approving the Association Agreement and the concerns expressed prior to the referendum as conveyed by the Dutch Prime Minister, the European Council takes note of a Decision of the Heads of State or Government of the 28 Member States of the European Union, meeting within the European Council (Annex), which addresses these concerns in full conformity with the Association Agreement and the EU treaties.

24. The European Council notes that the Decision set out in the Annex is legally binding on the 28 Member States of the European Union, and may be amended or repealed only by common accord of their Heads of State or Government. It will take effect once the Kingdom of the Netherlands has ratified the agreement and the Union has concluded it. Should this not be the case, the Decision will cease to exist.

25. The European Council welcomes the results of the EU-Ukraine Summit on 24 November 2016 and stresses the Union's continued resolve to deepen and strengthen its relationship with Ukraine in the face of current challenges. It recognises Ukraine's achievements in implementing reforms to meet European standards and the fact that it has met the conditions for a visa-free regime with the Union. Further to the adoption of a robust suspension mechanism, the co-legislators are invited to complete the procedure leading to the lifting of visa requirements for Ukraine and Georgia.

Syria

26. The European Council strongly condemns the continued assault on Aleppo by the Syrian regime and its allies, notably Russia and Iran, including the deliberate targeting of civilians and hospitals. The European Council urgently calls on the regime and Russia, as well as all parties in the Syrian conflict to implement immediately the following four emergency measures:

a) the evacuation in safety and dignity of the inhabitants of the eastern part of Aleppo under the supervision and coordination of the United Nations, to a destination of their choosing. Members of the civil defence and civil administration must also be evacuated without obstruction under the supervision of the United Nations. The most seriously injured persons should be evacuated first;

b) immediate and unconditional aid and protection for all inhabitants of the eastern part of Aleppo, without discrimination and in accordance with international humanitarian law, guaranteeing full and unimpeded access for the United Nations and its partners on the ground in supplying essential items and urgent medical assistance, as provided for in United Nations Security Council Resolution 2258, for the whole of Syria;

c) genuine protection for all medical personnel and installations throughout the country, in accordance with United Nations Security Council Resolution 2286, and in particular for the border hospitals of Atmeh, Darkoush, Bab Al Hawa and Bab Al Salamah;

d) international humanitarian law needs to be applied in the eastern part of Aleppo but also to the whole country and in particular to all those areas in which civilians have been besieged.

The EU, as the first provider of humanitarian support to the Syrian population, will continue to work for achieving these goals.

27. Hostilities in Syria must cease immediately. The EU will work constructively with all partners, under UN auspices, towards a transition as agreed in United Nations Security Council Resolution 2254. To this end, the European Council invites the High Representative to continue her ongoing direct engagement with all relevant partners. Those responsible for breaches of international law, some of which may amount to war crimes, must be held accountable. The EU is considering all available options. The EU will provide support for Syria's reconstruction only once a credible political transition is firmly under way.

ANNEX

Decision of the Heads of State or Government of the 28 Member States of the European Union, meeting within the European Council, on the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Ukraine, of the other part

The Heads of State or Government of the 28 Member States of the European Union, whose governments are signatories of the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Ukraine, of the other part ('the Agreement'),

Taking note of the outcome of the Dutch referendum on 6 April 2016 on the bill approving the EU-Ukraine Association Agreement and of the concerns expressed prior to the referendum as conveyed by the Prime Minister of the Kingdom of the Netherlands,

Desiring to address those concerns in full conformity with the EU-Ukraine Association Agreement and the EU treaties, and in line with the EU's goal of deepening relations with Ukraine,

Having regard to the conclusions of the European Council of 15 December 2016,

Have decided to adopt the following, as their common understanding, which is to take effect once the Kingdom of the Netherlands has ratified the Agreement and the European Union has concluded it:

A

While aiming to establish a close and lasting relationship between the parties to the Agreement based on common values, the Agreement does not confer on Ukraine the status of a candidate country for accession to the Union, nor does it constitute a commitment to confer such status to Ukraine in the future.

B

The Agreement reaffirms cooperation with Ukraine in the fields of security, notably with regard to conflict prevention, crisis management and non-proliferation of weapons of mass destruction. It does not contain an obligation for the Union or its Member States to provide collective security guarantees or other military aid or assistance to Ukraine.

C

While setting out the objective of enhancing the mobility of citizens, the Agreement does not grant to Ukrainian nationals or Union citizens, respectively, the right to reside and work freely within the territory of the Member States or Ukraine. The Agreement does not affect the right of Member States to determine volumes of admission of Ukrainian nationals to their territory in order to seek work, whether employed or self-employed.

D

The Agreement reiterates the commitment of the Union to support the reform process in Ukraine. The Agreement does not require additional financial support by the Member States to Ukraine, nor does it change each Member State's exclusive right to determine the nature and volume of its bilateral financial support.

E

The fight against corruption is central to enhancing the relationship between the Parties to the Agreement. Under the Agreement the Parties will cooperate in combating and preventing corruption both in the private and public sector. Cooperation between the Parties related to the rule of law is aimed in particular at strengthening the judiciary, improving its efficiency, safeguarding its independence and impartiality, and combating corruption.

F

Respect for democratic principles, human rights and fundamental freedoms and respect for the principle of the rule of law, including as referred to under E, are essential elements of the Agreement. The Parties are required to fulfil their obligations under the Agreement, the implementation and enforcement of which will be monitored. In accordance with Article 478 of the Agreement, each Party may take appropriate measures in case of non-fulfilment of obligations. In the selection of appropriate measures, priority will be given to those which least disturb the functioning of the Agreement. These measures may, as a last resort, include the suspension of any rights or obligations provided under the provisions of the Agreement.