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NOTE

From:	Presidency
To:	Permanent Representatives Committee/Council
Subject:	Russia's aggression against Ukraine

- Situation of refugees in the EU
- Internal security implications

Introduction

The EU response to Russia's war of aggression against Ukraine has clearly confirmed the capacity of the EU to respond quickly and jointly to crises. Within a very short period of time, the EU Member States have been able to take care of millions of Ukrainian refugees. After having provided displaced Ukrainian citizens with a safe place to stay, the focus must now be put on medium- and long-term measures, including education, housing, employment and health care.

At the same time, despite the successful counteroffensive of the Ukrainian army in the recent months, we must take into account unpredictability of further development of the conflict and potential worsening of the situation. Moreover, with winter coming and millions of internally displaced people living in poor conditions in the Ukrainian territory, the EU must be prepared to a possible new influx of refugees.

While addressing the situation of Ukrainians fleeing the war, our focus must remain on relevant security implications. Increased risks of migrant smuggling, human trafficking, illicit firearms trafficking, terrorism and other serious crime related to the war in Ukraine also require our joint coordination and close operational cooperation with all stakeholders, including the Ukrainian authorities.

Last but not least, an efficient joint EU response against continuing spread of disinformation in connection with the war in Ukraine is needed as well as coordination in terms of the management of outflow of Russians to the EU.

In order to focus the debate at the JHA Council, the Ministers are invited to pay attention to key topical issues of both migration and internal security nexus of the Russian aggression against Ukraine, as set out in the questions for discussion.

Situation of refugees in the EU

Management of beneficiaries of temporary protection, in particular beneficiaries returning for short periods to Ukraine

On 3 March 2022, the Temporary Protection Directive was activated. At present, 4.31 million Ukrainian citizens have registered for temporary protection, the majority of them being women and children. The temporary protection directive has been activated for a period of one year, but it should be automatically prolonged in March 2023, unless the Commission, that shall also examine any request by a Member State, proposes otherwise.

Information exchange between Member States, EU agencies and civil society as well as the coordination on different aspects regarding the reception of Ukrainians and third country nationals fleeing the war has been ensured in the Solidarity Platform. In addition, since end February, 24 IPCR roundtables (including one high-level roundtable) have been organised to identify gaps and address bottlenecks. The '10-Point Plan' for stronger European action on welcoming people fleeing the war from Ukraine has been used as a guidance.

As the first point of the plan, an EU platform for registration of people enjoying temporary protection or adequate protection under national law has been created in order to have an EU overview of where beneficiaries in the EU have registered.

To date, 24 Member States have uploaded data to the EU Platform with a total of 3.46 million registrations. Some Member States (Slovenia, Sweden) are expected to follow suit when they overcome legal obstacles in their national systems, while for Schengen Associated Countries and Denmark a legal solution still needs to be found¹. To date, reporting Member States have indicated around 360 000 duplicate registrations, with around 50 000 people having their registrations for temporary protection terminated or de-registered.

Numerous persons enjoying temporary protection are entering and exiting the EU to Ukraine on a daily basis. It is important to distinguish between a short return (for family visits, collecting papers, etc.) and a voluntary (i.e. “permanent”) return to Ukraine. Short returns to Ukraine should not be considered by Member States as a decision to return voluntarily, and should therefore not lead to revocation of rights attached to temporary protection.² Member States can require those persons who intend to return to Ukraine to notify the authorities of the host Member State of their absence in order to limit the wrong use of rights attached to the temporary protection status. Nevertheless, given the volatility of the situation in Ukraine, it is not surprising that many Ukrainians who exit the EU do not know whether their stay will be a short or a long one. It is also not unlikely that a number of those who have left voluntarily with the intention to stay in Ukraine will at one point want to return to the EU, to which they are entitled, especially if the situation on the ground deteriorates.

¹ SACs may be able to participate through an international agreement (and an amended joint controllership agreement in order to allow also exchange data outside the EU territory). Work on this is still in progress.

² As set out in the Commission services FAQ on this topic:
https://home-affairs.ec.europa.eu/system/files/2022-07/Frequently%20asked%20questions%20received%20on%20the%20interpretation%20of%20the%20Temporary%20Protection%20Directive%20and%20Council%20Implementing%20Decision%202022-382_en.pdf

Therefore, it is necessary to have complete and precise data on the number of temporary protection beneficiaries (Ukrainians and third country nationals) on the territory of the EU as well as a consistent methodology regarding their (de)registering, in order to keep track of all types of movements and the attached rights.

EU Communication strategies to counter (Russian) disinformation

An important element affecting Ukrainians in the EU are the ongoing efforts by Russian (and domestic) actors spreading false information to the European public. Disinformation efforts will undoubtedly continue and perhaps even increase ahead of the winter season to take advantage of the fears linked to the current, multiple crises. Many Europeans will feel the negative economic consequences of the crisis, and some may be receptive to disinformation if not properly informed of facts.

The response to disinformation by EU bodies and Member States' governments so far has largely focused on technical measures, seeking to reduce the spread of misleading content on social media and remove fake and automated accounts. Responding to today's sophisticated and coordinated disinformation narratives requires not only content moderation and fact-checking, but new narratives. As disinformation actors attempt to shape hostile attitudes to Ukrainian refugees, it is imperative that the EU and its Member States are able to counter these narratives by promoting common European values.

To avoid that Ukrainian displaced persons become the target group of social tension and outright hostile reactions from EU citizens, Member States with the support of the Commission would need to ramp up campaigns to counter disinformation.

Accommodation of persons fleeing Ukraine in the Member States and the winterisation of internally displaced persons in Ukraine

Winters in Ukraine are harsh with temperatures dropping as low as -30 °C. Millions of Ukrainians are living in damaged homes, or in buildings ill-suited to provide sufficient protection against winter conditions. Ukrainians still living in their homes and internally displaced persons (IDPs) are at risk of losing access to heating due to potential war-related damage to centralized heating systems or energy infrastructure. According to a recent IOM survey, 21 % of the Ukrainians are residing in housing that is not suitable for the winter, 56 % expect that utilities will be cut in their current house and 39 % indicate they cannot afford to pay for heating. Nationwide, some 744 000 Ukrainians (IDPs and non-IDPs) are considering to relocate primarily due to the arrival of the heating season. The number of actual winter-related movements is likely to be lower due to financial constraints.

The Ukrainian government is leading the preparation and implementation of winterisation activities, while the UN and humanitarian partners are collaborating to complement this through interventions to address acute humanitarian needs over the winter period. Winterised shelters are made available to Ukraine through UCPM.

However, the lack of warm accommodation may cause people to leave for Europe and could lead to an increased influx of refugees during the winter period and the need to upscale reception capacity. The Czech Presidency is aiming to consolidate and coordinate the issues at the relevant platforms, notably at IPCR.

Winterisation of housing for Ukrainians already present in the EU also deserves some attention. With energy prices skyrocketing, ensuring warm, safe and dignified living conditions for all Ukrainians may become a problem and pressure on governments may increase. Many temporary accommodations are sub-optimal and heating is becoming very expensive. The longer the war lasts and the more likely it is that the refugees will stay in the EU for a long period, EU citizens may find it more difficult to continue providing temporary shelter in their own homes. The negative economic outlook and soaring energy prices will only encourage such decisions.

Internal security implications

State of play

At the JHA Council meeting in June, the Member States agreed on the necessity to intensify the implementation of the '10-Point Plan' presented by the European Commission in March 2022. With the major security threats stemming from the war in Ukraine, the Member States highlighted trafficking in human beings as well as firearms trafficking and supported proposed preventive measures.

Internal security implications of the Russian aggression against Ukraine were further discussed as one of the key topics at the informal meeting of Home Affairs Ministers in July in Prague. After hearing from the representatives of Ukraine and Moldova, special guests in the meeting, about their priorities and needs, the Ministers agreed on the necessity to develop close operational cooperation with Ukrainian and Moldovan authorities, including systematic exchange of information and analysis on serious crime threats related to the war in Ukraine. Europol, Frontex and Eurojust should play a key role in this regard. Moreover, the new EU Support Hub for Internal Security and Border Management in Moldova was launched on the occasion of the July informal meeting.

Work on various work strands to tackle the impact of the war in Ukraine on internal security continues.

Europol coordinates a continuous monitoring of the comprehensive situation picture through a single threat assessment updated regularly. The regular contributions of the Member States and partners, including relevant JHA Agencies, but also CSDP missions (EUAM and EUBAM) to that end are key.

Priority areas remain the threat of firearms trafficking, trafficking in human beings, activities of Russian-speaking criminal groups, and border management in areas close to the battlefields.

JHA Agencies continue providing structured support ranging from supporting investigations of international war crimes allegedly committed in Ukraine to contributing to the enforcement of EU sanctions and supporting Ukrainian and Moldovan authorities or producing regular analyses on the situation. The deployment of Europol experts and guest officers in all Member States neighbouring Ukraine and in Moldova, the deployment of Frontex officers in Moldova under the EU-Moldova Status Agreement and a revised EUBAM Ukraine/Moldova mandate, the mobilisation of the EMPACT community to target joint operational action against new threats are concrete measures supporting EU security objectives such as the Traffic in Human Beings hackathon or the OSCAR operation on asset recovery and money laundering that both lead to ongoing criminal investigations.

The EU Support Hub for Internal Security and Border Management established in Moldova is another tool to step up operational cooperation and partnerships with key third countries. It should help Moldova participate in relevant EU tools and instruments on internal security, including through EMPACT with a focus on six priority areas: firearms trafficking, migrant smuggling, trafficking in human beings, preventing and countering terrorism and violent extremism, cybercrime and drug trafficking.

Security dialogue with Ukraine

It is in the interest of the EU and its Member States to launch a structured security dialogue with Ukrainian authorities to counter evolving threats of organised crime and terrorism, which may impact the EU both in the short and in the long term. This would improve direct information exchange and operational cooperation in priority areas of action.

The recent visit to Ukraine led by the EU CTC, EU COM and EEAS brings an important momentum to launch this dialogue. A structured and operational follow-up in the Council, e.g. in the framework of IPCR and under the steer of COSI, as relevant, is instrumental to ensuring that Member States can follow the progress on the various areas of action set out in the Action Table established by the Presidency³ as well as react to possible changes in the situation. This follow-up on priority actions should involve key interlocutors, including Member States, the Commission, the EEAS, JHA agencies, and in particular Ukrainian counterparts.

Questions for discussions:

- 1. How do Ministers assess contingency planning in the EU and efforts to ensure warm, safe and dignified living conditions during winter? In case there are shortcomings, what is needed to remedy them?*
- 2. How do Ministers assess the state of play of security implications from the Russian aggression in Ukraine and responses provided? Do Ministers agree to launch a Security Dialogue with Ukraine to operationalise the exchanges with Ukrainian authorities?*

³ 12311/22