Opinion of the European Economic and Social Committee on 'Proposal for a Directive of the European Parliament and of the Council on information exchange between law enforcement authorities of Member States, repealing Council Framework Decision 2006/960/JHA'

(COM(2021) 782 final — 2021/0411 (COD))

'Proposal for a Regulation of the European Parliament and of the Council on automated data exchange for police cooperation ("Prüm II"), amending Council Decisions 2008/615/JHA and 2008/616/JHA and Regulations (EU) 2018/1726, (EU) 2019/817 and (EU) 2019/818 of the European Parliament and of the Council'

(COM(2021) 784 final — 2021/0410 (COD))

'Proposal for a Regulation of the European Parliament and of the Council addressing situations of instrumentalisation in the field of migration and asylum'

(COM(2021) 890 final — 2021/0427 (COD))

'Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 2016/399 on a Union Code on the rules governing the movement of persons across borders'

(COM(2021) 891 final — 2021/0428 (COD))

(2022/C 323/12)

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Referral	European Commission, 2.5.2022
Legal basis	Article 304 of the Treaty on the Functioning of the European Union
Section responsible	Section for Employment, Social Affairs and Citizenship
Adopted in section	3.5.2022
Adopted at plenary	18.5.2022
Plenary session No	569
Outcome of vote (for/against/abstentions)	210/3/4

1. **Conclusions and recommendations**

1.1. The Russian military aggression against Ukraine, in the immediate vicinity of the EU's external borders, is an unpredictable game changer. Given the immensity of its encompassing and supposedly long-lasting impacts at all levels, also resulting in an unprecedented number of refugees — the largest since World War II — it constitutes, historically, the greatest threat to the functioning of the Schengen area and the security of the European Union as a whole.

1.2. The EESC highly appreciates the first activation of Council Directive 2001/55/EC ([1]) ('Temporary Protection Directive') in the context of the Russian aggression against Ukraine ([2]). Moreover, the Committee wants to encourage the Commission to consider broadening the usage and the activation of the Directive for third country nationals in future severe and urgent crisis situations. The current activation of the Directive could well be used to develop solidarity mechanisms among the Member States.

([1]) Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof (OJ L 212, 7.8.2001, p. 12).

([2]) Council Implementing Decision (EU) 2022/382 of 4 March 2022 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC, and having the effect of introducing temporary protection (OJ L 71, 4.3.2022, p. 1).

1.3. In this context, the EESC strongly supports an urgent need for effective, genuine, humane — and humanitarian — common European regulations on migration, asylum and security cooperation in an open, but equally secure Schengen area, in full accordance with the Charter of Fundamental Rights. The Committee highly encourages better conditions for all refugees.

1.4. The consequences of the war are also a threat for the European model of the social market economy as well as for the freedom and rights of EU citizens and other inhabitants. The EESC encourages preserving and valuing the Schengen area as it is currently constituted, to guarantee not only the free movement of human beings, but also the functioning of the Single Market.

1.5. During the COVID-19 crisis, many Member States introduced border controls and other restrictions against freedom of movement without any efforts to coordinate and properly justify such restrictions at European level, even though, as already stated in a previous opinion, maintaining open borders is crucial for the full functionality of the Single Market, for recovering and increasing resilience, and for fostering European solidarity and identity. This also demonstrates the need for a 'real time' decision-making mechanism at the inter-institutional level in crisis situations. In any case, the EESC fully supports the Commission's position to maintain internal borders open, even during crisis situations. Any travel restrictions between Schengen states imposed as a result of crisis situations should be temporary, and not exceed possible travel restrictions inside Member States.

1.6. The EESC fully agrees with the Commission's position that the use of police checks and cooperation, including information exchange and communication, have the potential to yield the same results as temporary internal border controls, and are less intrusive to the free movement of persons, goods, and services. In this context, the Committee welcomes the setup of an informal expert group composed of experts from each Member State to advise and support the Commission in the monitoring and application of the Directive on information exchange between the law enforcement authorities of Member States; the EESC proposes to include relevant and representative civil society organisations, as well as the Committee itself, in the work of this informal expert group.

1.7. Also in this context, the EESC stresses the absolute need for the maintenance of the judiciary's independence, in particular in cases of the physical presence of the judicial bodies at the location of the Single Point of Contact. Moreover, civil society organisations (especially 'watch dogs' or those working in the area of the protection of vulnerable groups, including migrants), should enjoy special protection with regard to providing information by Single Points of Contact.

1.8. The EESC acknowledges the ambitious data collection activities to be developed by the Member States in the framework of Prüm II. Prüm II goes a considerable step further than Prüm I, by requiring Member States to build technical installations for facial profiling. In this context, the Committee is concerned about the danger of influencing digital data exchange, especially, given the recent non-transparent war situation in Europe.

1.9. The EESC calls for the introduction of more thorough and frequent control mechanisms to ensure high ethical standards when collecting and storing data by Europol, particularly in relation to third countries, as well as for setting clear time limits on the storage of this data. The EESC recommends the regular monitoring of Europol activities by civil society organisations and other relevant and potentially affected actors.

1.10. The EESC fully acknowledges the fundamental rights of people arriving at European and Schengen borders, and their principle right to ask for entrance permission and the right to apply for asylum. It once again wants to recall respect of the right of *non-refoulement*.

1.11. The EESC calls for Member States to take over shared responsibility, as introduced with the flexible solidarity mechanism in the New Pact for Asylum and Migration. They should be proactive in offering solidarity to other Member States, above all in crisis situations.

1.12. The EESC particularly notes the indispensable positive role of respective civil society organisations providing humanitarian help for migrants being instrumentalised by third countries, and, moreover, supporting and providing information about the rights of migrants and asylum-seekers. The organisations' access to migrants and asylum-seekers in the affected border areas should always be guaranteed. Such organisations should be entitled to receive effective and simplified financial support under European funding such as the Emergency Assistance of the Asylum, Migration and Integration Fund (AMIF).

1.13. The EESC proposes installing large-scale education and awareness raising programmes to enhance the public understanding of migration as a generally positive phenomenon for receiving societies, coordinated centrally, and implemented by each Member State.

2. **General comments**

2.1. This opinion is being drafted in a time of the historically greatest threat to the functioning of the Schengen area and the security of the European Union, caused by the Russian military aggression against Ukraine in the immediate vicinity of the EU's external borders. This war situation, being also a source of unprecedented numbers of migrants and refugees, the largest since World War II, once again underlines the tremendous importance of external border security and the stability of the Schengen area, as a precondition of internal security, and, moreover, the need for effective, genuine, humane — and humanitarian — common European regulations on migration and asylum.

2.2. The Schengen area is home to more than 420 million people across 26 countries. The removal of internal border controls between Schengen member states is an integral part of the European way of life: almost 1,7 million people reside in one Schengen member state and work in another. People have built their lives around the freedoms offered by the Schengen area, with 3,5 million people crossing between Schengen member states every day.

2.3. On 20 October 2021 the Committee adopted its opinion on the Commission's 'Strategy towards a fully functioning and resilient Schengen area' ([3]). The Committee welcomed this Strategy, believing that the Commission should take a stronger stance in support of borderless travel in Europe. The EESC stressed that Member States' security concerns are better addressed with more and strengthened cooperation and coordination between law enforcement authorities than with the reintroduction of controls at internal borders.

2.4. At the same time, the Committee wants to reiterate its concern about the continued exclusion from full application of the Schengen acquis of the Member States Romania, Bulgaria and Croatia. Together with the Commission, it calls for swift and decisive action from the Council in this regard. Moreover, the Committee wants to encourage the Commission to finalise the evaluation of the application of the Schengen acquis with Cyprus as well. The Committee reiterated also, that when implementing EU policy for border management, interoperability, migration and asylum management as well as for police and criminal justice cooperation, the EU and its Member States were at all times bound by the Charter of Fundamental Rights.

2.5. In the framework of the implementation of the Strategy, in December 2021, the European Commission proposed updated rules to reinforce the governance of the Schengen area ([4]). The targeted changes will bring greater EU coordination and better equip Member States to deal with emerging challenges when managing both the EU's common external border and internal borders within the Schengen area. The update seeks to ensure that reintroducing internal border controls remains a measure of last resort. The new rules also introduce common tools to manage the external borders more efficiently in the event of a public health crisis, building on the lessons learnt from the COVID-19 pandemic. The instrumentalisation of migrants is also addressed in the update to the Schengen rules, as well as through a parallel proposal for measures Member States can take in the fields of asylum and return in such a situation ([5]).

2.6. The updated rules were published in the form of five proposals concerning the Security Union and the Schengen agreement. Given the non-legislative character of one of the proposals, the present opinion focuses on four proposals, namely on a directive on information exchange between the law enforcement authorities of Member States ([6]), on a regulation on automated data exchange for police cooperation ([7]), on a regulation addressing situations of instrumentalisation in the field of migration and asylum ([8]) and on a regulation amending the Union Code on the rules governing the movement of persons across borders ([9]).

([3]) COM(2021) 277 final.
([4]) COM(2021) 891 final.
([5]) COM(2021) 890 final.
([6]) COM(2021) 782 final.
([7]) COM(2021) 784 final.
([8]) COM(2021) 890 final.
([9]) COM(2021) 891 final.

2.7. Nevertheless, the EESC strongly believes that the additional, specific and temporary measures and amendments introduced in all parts of the Schengen package and focused on an effective management of borders will respect the right and principles set out in the Charter of Fundamental Rights of the European Union, in particular the freedom of movement and residence (Art. 45), as well as the right to asylum (Art. 18) and the principle of *non-refoulement* (Art. 19), as clearly stressed in the proposals.

2.8. As stated elsewhere ([10]), the narrative of migration and security implicit in the proposed documents needs to be reframed prudently. The configuration of migration as a threat, and the discourse that presents migrants as a danger, dehumanise human beings and only favour those who want to take advantage of them for geostrategic or national political reason. Migration has to be seen as a positive value. Immigrants have become indispensable and increasingly needed contributors to our societies and economies.

3. **Specific comments regarding the Security Union package**

3.1. *Proposal for a Directive of the European Parliament and of the Council on information exchange between law enforcement authorities of Member States (COM(2021) 782 final)*

3.1.1. The overall objective of this proposal is to legislate on organisational and procedural aspects of information exchange between law enforcement authorities in the EU with a view to contributing to the effective and efficient exchange of such information, hence protecting a fully functioning and resilient Schengen area.

3.1.2. The EESC fully agrees with the Commission's position that the use of police checks and cooperation, including information exchange and communication, have the potential to yield the same results as temporary internal border controls, and are less intrusive to the free movement of persons, goods and services. At the same time the EESC supports the Commission's view that such measures must fully comply with fundamental rights, including data protection requirements in line with existing EU legislation. As stated earlier ([11]), there must be a better balance between the fundamental rights of individuals enshrined in the Treaty on the Functioning of the European Union, and the need for better law enforcement in combating and prosecuting crime, in order to ensure a climate of security and justice across the EU. Any imbalance or violation of fundamental rights should be carefully monitored and reported by EU agencies and external actors.

3.1.3. Consequently, the Committee welcomes the setup of an informal expert group composed of experts from each Member State to advise and support the Commission in the monitoring and application of the Directive, including in the preparation of Commission guidance papers. In this context the EESC proposes to include relevant and representative civil society organisations as well as the EESC itself in the work of the informal expert group.

3.1.4. The EESC wants to reiterate considering and including in the monitoring of data exchange, the baseline of the information to be exchanged: the definitions of a (serious) criminal offence ([12]) as well as ensuring that all sides, those requesting as well as those responding, follow these same definitions and same baselines for it.

3.1.5. In the context of the capabilities of Single Points of Contact including having at their disposition judicial authorities competent to grant necessary judicial authorisations at all times, the EESC stresses the absolute need and obligation for the maintenance of the judiciary's independence. In practice, this may be particulary important in cases of the physical presence of the judicial bodies or their representatives at the location of the Single Point of Contact.

3.1.6. Civil society organisations, especially those such as 'watch dogs' or working in the area of the protection of vulnerable groups, including migrants, should enjoy special protection with regard to providing information by Single Points of Contact, because of a high probability of undue harm to the vital interests of such legal persons.

([10]) EESC opinion SOC/707 (OJ C 290, 29.7.2022, p. 90).
([11]) OJ C 367, 10.10.2018, p. 84.
([12]) OJ C 367, 10.10.2018, p. 84, par. 4.3.

3.2. *Proposal for a Regulation of the European Parliament and of the Council on automated data exchange for police cooperation ('Prüm II') (COM(2021) 784 final)*

3.2.1. Building on the framework of the existing Prüm (Council Decisions 2008/615/JHA ([13]) and 2008/616/JHA ([14]), including the Prüm Convention), the proposal for Prüm II aims at 'reinforcing and modernising the framework and allowing interoperability with other EU information systems'. Eventually, the initiative should create a new architecture 'that allows for easier and faster exchange of data between Member States and that ensures high level of data protection of fundamental rights'.

3.2.2. The EESC acknowledges the ambitious data collection activities to be developed by the Member States. Building on the experiences with the implementation of Prüm I, it shows the time-intensity for Member States to establish the required data collection tools. Prüm II goes a considerable step further with requiring Member States to build technical installations for facial profiling, which is so far only partially present in Member States. Reaching a comparable level of data collection in all Member States may take a lot of time, and create difficulties in ensuring interoperability, a concern which has been stated before ([15]). The Committee, moreover, is particularly concerned about the danger of influence on digital data exchange given the recent urgent, chaotic and non-transparent war situation in Europe.

3.2.3. As stated earlier ([16]), the protection of personal data, under the appropriate legal frameworks, needs to be respected at all times, especially when highly sensitive personal data, such as under the Prüm Decisions, is concerned. The EU and the EESC commented on a general outline for a sufficiently sensitive treatment of data within Europe ([17]).

3.2.4. The EECS highlights that particularly the EU-wide mandatory creation of facial profiling data banks and the exchange of such data, even if in the form of record numbers and encrypted formats, needs to be treated with tremendous delicacy. The European Parliament with 2020/2016(INI) ([18]) has recommended to step back and be cautious with facial profiling tools, not least as recording and sharing facial images of individuals brings those in danger to be recognisable. Thus, the EECS views the proposal for a self-evident establishment of national data banks for facial images as well as their Union-wide exchange between participating Member States with great anxiety. It calls for a high-level scrutinising of proportionality and confidentiality in terms of protecting personal data. Although the EESC fully recognises the general objective of this proposal resulting from the Treaty-based goal of contributing to internal security in the EU, the application of facial profiling could be considered to be non-mandatory.

3.2.5. Further, the EESC is worried about the proposal to exchange police records between all Member States, even if partially anonymised in terms of record numbers and encrypted in their transfer. Law enforcement agencies in different Member States appear to have different standards for defining and registering suspects and criminals. An exchange upon request for data match thus may depend on the assessment of individual police officers. This may lead to situations where suspects in one Member State, e.g. in relation to activities for refugee rights, enter the criminal record of another Member State. Here, the rights of access and storage need to be clearly confidential and restricted so as not to endanger fundamental

([13]) Council Decision 2008/615/JHA of 23 June 2008 on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime (OJ L 210, 6.8.2008, p. 1).
([14]) Council Decision 2008/616/JHA of 23 June 2008 on the implementation of Decision 2008/615/JHA on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime (OJ L 210, 6.8.2008, p. 12).
([15]) OJ C 105, 4.3.2022, p. 108.
([16]) OJ C 105, 4.3.2022, p. 108.
([17]) Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. A European strategy for data (COM(2020) 66 final), adopted 18 September 2020; and EESC opinion (OJ C 429, 11.12.2020, p. 290).
([18]) European Parliament resolution of 6 October 2021 on artificial intelligence in criminal law and its use by the police and judicial authorities in criminal matters (2020/2016(INI)) (OJ C 132, 24.3.2022, p. 17).

rights in a disproportionate way. Moreover, there should be solid and shared criteria established for defining a (serious) crime and criminal suspects. The rules already established have to be respected and enforced in this respect ([19]).

3.2.6. The EESC solicits the introduction of more thorough and frequent control mechanisms to ensure an ethical collection, above all in relation to third countries, and storage of Europol data, as well as setting clear time limits on this storage of data. As stated earlier, a central role of Europol in the European architecture of above all cross-border criminal prevention and the fight against crime, including in terms of data exchange, is welcome; however, this role needs to be reviewed independently and evaluated including by civil society, social partners and relevant stakeholders, especially those groups and individuals whose lives could be wrongly or unjustifiably affected by law enforcement activities ([20]). Europol has been repeatedly accused of lumping together data of suspects and criminals together with those of other private persons ([21]). Particularly, it needs to be ensured that there is no inadequate overlap with migration and asylum issues. The EESC recommends a regular monitoring of Europol activities by civil society organisations and other relevant and potentially affected actors, moreover, proposing to put transparency mechanisms in place.

4. **Specific comments regarding the Schengen Package**

4.1. *Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 2016/399 on a Union Code on the rules governing the movement of persons across borders (COM(2021) 891 final)*

4.1.1. The Schengen area comprises an area where European Union citizens and non-EU citizens legally residing in the territory, as well as goods and services, can travel without being subject to internal border controls. Schengen is an essential element of the area of freedom, security and justice and a key element for the functioning of the Single Market. Its creation has brought significant social and economic benefits to European society.

4.1.2. While large scale public health emergencies, like pandemics, may be considered as a serious threat to public policy, they must not be considered as a reason for reintroducing border controls in the Schengen area. Such action does not appear to be a constructive measure. The same should apply to the exercise of police or other public powers in the internal border areas, being de facto equivalent to those border controls. Any travel restrictions between Schengen states on the basis of large scale public health emergencies should not exceed possible travel restrictions inside Member States. Otherwise the whole concept of an area without controls at internal borders: a 'part of Europe's DNA' ([22]) will be undermined. Moreover, such regulations can weaken efforts in favour of a common European health policy, especially in the area of epidemic control.

4.1.3. The EESC welcomes the Commission's attempt to introduce new procedural safeguards in the event of unilateral reintroductions of internal border controls. The proposal wishes to clarify and expands the list of elements that must be assessed by a Member State when taking a decision on a temporary reintroduction or the prolongation of border controls. The Commission will be required to issue an opinion on the proportionality and necessity of these decisions and launch a consultation process with the Member States. The EESC urges the further clarifying of the procedural safeguards introduced, above all by defining a clear time limit for potential prolongations.

4.1.4. In this context the EESC considers the distinction between 'essential' and 'non-essential' travel in the Schengen area as also posing a serious threat to the foundations of Schengen.

([19]) Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (OJ L 119, 4.5.2016, p. 89) ('Law Enforcement Directive'); and NIS Directive (EU) 2016/1148 of the European Parliament and of the Council of 6 July 2016 concerning measures for a high common level of security of network and information systems across the Union (OJ L 194, 19.7.2016, p. 1) ('NIS Directive').

([20]) OJ C 341, 24.8.2021, p. 66.

([21]) A data 'black hole': Europol ordered to delete vast store of personal data, Fotiadis, Apostolis et al., The Guardian 10 January 2022, https://www.theguardian.com/world/2022/jan/10/a-data-black-hole-europol-ordered-to-delete-vast-store-of-personal-data

([22]) Communication 'A strategy towards a fully functioning and resilient Schengen area' (COM(2021) 277 final).

4.1.5. The EESC fully supports, and furthermore solicits the Commission's position, that the limitation of the border crossing points or their opening hours should take full account of the rights of third-country nationals seeking international protection. An effective access to border points must be ensured as well as an effective protection of the right to asylum.

4.1.6. This relates to the EESC's concern that persons apprehended at the internal borders should be treated with dignity and informed about their rights instead of legalising forms of internal pushbacks. Such approach runs a high risk of open floodgates for uncontrollable racial profiling. It should be of utmost priority to ensure the free movement of persons within the Schengen area. Controls should be conducted by adequately trained and authorised personnel only. Their actions should be independently monitored at random.

4.1.7. The EESC stresses that checks conducted within internal as well as at external border areas using monitoring and surveillance technologies should be reviewed regarding their proportionality. Civil rights organisations could support with reviewing and monitoring activities.

4.1.8. The Committee understands the Commission's aim with respect to Article 13 of establishing a common procedure for Member States to control and surveil their EU's external and Schengen borders. However, there is no mention of access to a rightful procedure to seek asylum or alternative forms of access for migrants, nor of any legal counselling related. The EESC urges that the fundamental rights of persons reaching the European and Schengen borders and their principle right to ask for entrance permission and the right to apply for asylum always be respected. In particular, vulnerable persons, medical cases and minors must be received and potentially transferred with cautiousness. As stated before the EESC is highly concerned about the violations reported at external borders ([23]); at the same time, it acknowledges the Commission's strengthened monitoring activities respectively ([24]).

4.1.9. The EESC reiteratedly encourages the Commission to actively make use of its enforcement powers under the Treaties in situations where there is a lack of follow-up to deficiencies found during Schengen Evaluations ([25]). Priority should be given to systemic practices that violate fundamental rights norms. This is of particular importance when it comes to vulnerable migrants. Notably, the Commission should not solely rely on the findings of the Schengen Evaluation Mechanism, but also monitor the fundamental rights situation itself actively with reference to international law and with the support of civil rights organisations. Moreover, a dedicated staff of the European Union Agency for Asylum (EUAA), as well as the European Union Agency for Fundamental Rights (FRA) should be active at the external borders to supervise the observance of fundamental rights.

4.2. *Proposal for a Regulation of the European Parliament and of the Council addressing situations of instrumentalisation in the field of migration and asylum (COM(2021) 890 final)* ([26])

4.2.1. Given the crisis at some parts of the external EU border in 2021 and before, this proposal aims at setting up a 'specific emergency migration management procedure, and, where necessary, providing support and solidarity measures to manage in an orderly, humane and dignified manner the arrival of persons having been instrumentalised by a third country, with full respect for fundamental rights.' The EESC acknowledges the specific circumstances which required the European Commission to take an effective action; however, it reiterates its concern about introducing and normalising rapid measures in the treatment of vulnerable migrant persons without having enough time and space to ensure their rights ([27]).

4.2.2. Moreover, the revised Schengen rules recognise the important role that Member States play at the external borders on behalf of all Member States and the Union as a whole in situations where migrants are instrumentalised for political purposes. The EESC acknowledges this role, but stresses that the protection of the EU or Schengen borders cannot be fulfilled by Member States at the external borders only. It calls for Member States to proactively support the solidarity mechanism proposed herein, but above all take over shared responsibility, as it has been introduced with the flexible solidarity mechanism in the New Pact for Asylum and Migration.

([23]) OJ C 105, 4.3.2022, p. 108.
([24]) OJ C 105, 4.3.2022, p. 108.
([25]) OJ C 105, 4.3.2022, p. 108.
([26]) For further differentiation cf. EESC opinion REX/554 (not yet published in the Official Journal).
([27]) OJ C 123, 9.4.2021, p. 15.

4.2.3. While the Committee acknowledges the need to provide specific guidance for situations of particular nature, it needs to be stressed that the proposed definition of 'instrumentalisation' remains fairly vague. The Committee urges that this approach be scrutinised in order to avoid a potential abuse of the concept in terms of an over-extensive application. Moreover, it recalls that the given treaties for asylum and situations of crisis do provide for fundamental guidelines and measures. The EESC urgently stresses the fundamental rights of persons and above all the principle of *non-refoulement* need to be respected under all circumstances.

4.2.4. The EESC stresses that a quasi-externalisation of the asylum procedure to the outer EU border in an ad hoc manner may be hard to monitor and implement with sufficient scrutiny and a fundamentally rights-oriented approach, particularly regarding the pre-entry screening capacities of Members States, which have been criticised already elsewhere ([28]). It needs to be ensured that the affected Member State has the necessary capacity and installations to manage the emergency situation in an adequate way. Support by other Member States through the solidarity mechanism, by central EU Agencies, above all EUAA, as well as NGOs and relevant international organisations such as the UNHCR, should thus be offered and accepted in a proactive way and not upon request of the affected Member State only.

4.2.5. The EESC particularly notes the indispensable positive role of civil society organisations providing humanitarian help for migrants being instrumentalised by third countries, including food, water, clothing, adequate medical care and temporary shelter, and moreover supporting and providing information about the rights of migrants and asylum-seekers. The organisations' access to migrants and asylum-seekers in the affected border areas should always be guaranteed. Such organisations should be entitled to receive effective and simplified financial support under European funding, like the Emergency Assistance of the Asylum, Migration and Integration Fund (AMIF).

4.2.6. In this context, it is of utmost importance not to soften the principle of *non-refoulement*, but to ensure people's rights and access to legal support and a rights-based procedure implemented by knowledgeable and capable personnel under the observation of UNHCR and EUAA. As stated elsewhere, the Committee sees the Commission's focus on irregular migration and so-called voluntary or forced return, with great concern ([29]).

4.2.7. Moreover, it should be ensured that alternative reasons for entry, such as family reunification, are to be taken into consideration.

4.2.8. The EESC worries about the aspect of accommodation of migrants and asylum-seekers during their registration process in particular. It needs to be ensured that Member States are able to accommodate persons in the most proper and dignified way without detaining them as a matter of course. A massive restriction of the freedom of movement of the persons concerned should be avoided. Civil society and humanitarian organisations should be allowed access for monitoring.

Brussels, 18 May 2022.

The President
of the European Economic and Social Committee
Christa SCHWENG

([28]) OJ C 123, 9.4.2021, p. 15.
([29]) OJ C 517, 22.12.2021, p. 86.