



HOUSE OF LORDS

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The EU Sub-Committee on Home Affairs

Inquiry on

THE EU ACTION PLAN AGAINST MIGRANT SMUGGLING

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11.30 am

Witnesses: Fabrice Leggeri, Dana Spinant and Richard Baumgartner

Members present

Baroness Prashar (Chairman)
Lord Condon
Lord Cormack
Baroness Janke
Lord Jay of Ewelme
Baroness Massey of Darwen
Lord Morris of Handsworth
Baroness Pinnock
Lord Ribeiro
Lord Soley
Lord Wasserman

Examination of Witnesses

Fabrice Leggeri, Executive Director, FRONTEX, **Dana Spinant**, Head of Unit, Irregular Migration and Return Policy, DG HOME, EU Commission, and **Richard Baumgartner**, Head of External Relations, EU Affairs Team, FRONTEX.

Q64 The Chairman: Good morning. Thank you very much for your time. I think it would be helpful if you started by introducing yourselves and telling us a little bit about what you do.

Fabrice Leggeri: Lord Chairman, thank you very much for the invitation. My name is Fabrice Leggeri. I am executive director of FRONTEX, the EU agency dealing with of border management of the external borders. I was appointed executive director in January this year, so some months ago.

Dana Spinant: Lord Chairman, thank you very much for this invitation. My name is Dana Spinant. I am head of the unit in charge of irregular migration and return policy at the European Commission in Brussels. My team drafted and is in charge of the implementation of the *EU Action Plan against Migrant Smuggling*.

Richard Baumgartner: Good morning. My name is Richard Ares Baumgartner. I am head of the team dealing with EU affairs at FRONTEX. We are in charge of co-operation with other EU institutions, EU agencies and international organisations.

The Chairman: Before asking a question, I should explain that this session is public and it will be broadcast live on a webcast. You will be sent a transcript of the proceedings. If there are any corrections you wish to make or any supplementary evidence you wish to submit, please feel free to do so. Perhaps we can start by talking a little bit about the safe and legal routes for refugees. Can you tell me what is being done at the EU level to ensure that you are creating safe and legal routes? Perhaps you can also explain what is understood by “safe and legal routes”.

Dana Spinant: Thank you very much for this question, which is very important in opening our discussion. Probably the surest way of disrupting the activities of migrant-smugglers is taking business away from them by bringing safely to the EU those who need protection. This is where the question of legal routes comes into play. The European Commission has identified ways to introduce legal routes for asylum seekers to the European Union and has taken action on that over the past months. The clearest legal route is through resettlement. The

European Commission made proposals in May for a recommendation to bring to the EU through a resettlement scheme 22,000 asylum seekers who are clearly in need of international protection. The Commission was very pleased to see that the member states accepted the imperative of contributing to this resettlement effort. They pledged even above the number suggested by the Commission: they pledged to bring through resettlement 22,504 asylum seekers. Of course, the UK also announced that it agreed to bring refugees through that resettlement scheme. The Commission was even happier to see that since July, when the member states made their pledges for resettlement, additional efforts for resettlement have been announced by the member states and the UK. We believe that this is the safest way to bring refugees to Europe and to take business away from migrant-smugglers. Of course, an additional way is relocation. Through relocation efforts, the asylum seekers are brought safely from the front-line states—the countries of disembarkation—to the rest of the EU, thus cutting away the business of intra-EU secondary movement, which is a big business for the smuggler networks.

The Chairman: Do you wish to add anything?

Fabrice Leggeri: Yes, I would like to point out in parallel to what has just been explained that in the Schengen border code the rule applying to migrants or people in need of protection is that border guards have to respect the non-refoulement principle and make sure that the people who arrive at the external border have the possibility to lodge an application for asylum. This is embedded in the fundamental rights of the European Union, and FRONTEX, as an EU agency, is committed to enforcing and promoting these fundamental rights. For instance, in the FRONTEX training portfolio for border guards, the agency insists on a special model specifically dedicated to the question of how to identify or recognise migrants in need of protection who may then be referred to authorities in charge of asylum.

The Chairman: Did you want to ask a supplementary question, Lord Cormack?

Lord Cormack: Yes. I am very grateful for what you have just said and, to some degree, reassured by it, but are you satisfied that adequate steps are being taken to try to ensure that ISIS and other nefarious organisations do not infiltrate the process? Are you confident that you are dealing with that effectively with your various partners?

Fabrice Leggeri: As the head of the EU agency in charge of the external border, I can give you some information on that. In FRONTEX activities so far, I have no evidence that potential terrorists have crossed the external border of the EU, taking boats with irregular migrants. Anyway, in co-operation with the member states, we are increasing awareness among the so-called screeners and debriefers deployed by FRONTEX at the external border. This is in line with the overall EU policy against terrorism, so that we can increase the awareness of this phenomenon as much as possible.

Lord Cormack: It is very surprising that you have no evidence at the moment. Is this because of a lack of vigilance?

Fabrice Leggeri: I would say that this is because FRONTEX, as an EU agency, has no access to intelligence.

Lord Jay of Ewelme: I am sorry, I did not quite hear that.

The Chairman: Could you speak up a little?

Fabrice Leggeri: FRONTEX, as an EU agency, has no access to this kind of operational intelligence. FRONTEX is not an intelligence agency. There are some other authorities at EU level, other stakeholders, and of course the competence lies with the member states when it

comes to the fight against terrorism. This may be why we cannot trace evidence of people who might be involved in terrorist activities.

Lord Cormack: It might indicate that more co-ordination is needed.

Q65 Baroness Pinnock: Thank you very much for that very clear response. Our previous witness suggested that creating safe and legal routes would simply encourage people-smugglers to take advantage of that by creating alternative routes but also by using safe and legal routes to transport more people through into the EU. What is your view on that?

Dana Spinant: First, I believe that legal routes are the safest way to bring asylum seekers to the place which can offer shelter in the EU, in its member states. It is possible that organised crime groups involved in migrant-smuggling would try to take advantage of those routes and abuse them but that is not a reason for us not to contemplate the opening of legal routes. Organised crime groups go where the business is, where the profit is, so they might try to take advantage of those routes because it might be an easier way for them to do their business. We will have to remain vigilant and ensure that in the implementation in practice of those legal channels, we are able to detect that and to take action against it. But it should not deter us from opening safe, legal routes to bring those people to Europe.

Lord Ribeiro: To put this in context, we are talking about migrant flows this year that may well exceed 1 million people in different areas around the Middle East, Africa and so on. You are saying that the European contribution is going to be 20,504. That is the total that will go through legal routes. Putting it in context, legal routes involve a very small number of people. Is that right?

Dana Spinant: To put it in context, we are talking about around half a million people who have reached the EU through irregular ways since the beginning of this year. Whether we are heading towards 1 million remains to be seen, but indeed the numbers we have seen so far are the highest in comparison with previous years. The resettlement scheme that I mentioned involving 22,500 people is the one that has been proposed by the Commission EU-wide. In addition, EU member states have their own pledging schemes, which the Commission strongly encourages. They can make use of other instruments, including humanitarian visas and permits, government and non-government sponsorships, family reunification schemes and so on. In addition, we should mention that the EU is making efforts outside its borders to build the capacity of transit factories for migrants so as to address the problem at that level. This is done through what we call regional development and protection schemes in the Horn of Africa and North Africa.

Lord Jay of Ewelme: I want to go back to the question of the information gathered by FRONTEX in the course of its duties. I imagine that it receives data and information about smuggling networks. What conclusions have you been able to draw about changes in the nature of smuggling networks over, say, the last few months or so, and about how that information is shared among EU agencies in the Commission? I ask that partly because some other witnesses that we have had have rather left us with the impression that information which is received is not effectively or efficiently shared with others to enable them to act on it. I would be interested in your views on that.

Fabrice Leggeri: In the course of FRONTEX operations such as Poseidon Sea in Greece or Triton in Italy, FRONTEX deploys officers called screeners and debriefers. The debriefers can get information and intelligence on the way that migrants have come to Europe so that they can collect information on the traffickers and smugglers. This information is forwarded to the host member states' law enforcement agencies—say, the Italian police or the Greek police. Then it is up to the host member state—Italy or Greece in this example—to forward

the information to Europol. That was the old pattern of the exchange of information. The new one, which we are working on, involves forwarding information directly from FRONTEX to Europol.

Lord Jay of Ewelme: When did that start?

Fabrice Leggeri: In the context of the so-called hotspots proposed by the Commission, we have already set up an EU regional task force in Catania, Italy. We are now working on a new EU regional task force in Piraeus in the FRONTEX liaison office near Athens. The concept is that we have EU inter-agency co-operation between FRONTEX and Europol, especially in order to trace the migrant smugglers and traffickers. Now, because we have liaison officers on the spot, they can start the smooth exchange of this information. The next step is the electronic exchange of personal data from FRONTEX to Europol. FRONTEX is now in touch with the European Data Protection Supervisor, who has already approved the general principles of this exchange, and we have now submitted to the European Data Protection Supervisor the precise implementation measures.

I hope that by the end of this year we will get a green light that will make it possible to fine-tune the ICT settings and then we will be able to directly forward to Europol personal data such as the names, or the alleged names, of traffickers and smugglers, phone numbers and the licence plate numbers of vehicles. I am talking about really individual and personal data.

Dana Spinant: What Fabrice has talked about is the beginning of a very promising way of addressing irregular migration in the EU through the hotspot concept, which the Commission proposed as part of its European agenda on migration.

What is the hotspot concept? Precisely, it is a way to provide concerted support from all relevant EU agencies to the member states that experience very high and unexpected migratory pressure. That means that all the relevant agencies would deploy experts there and would co-ordinate the deployment of national experts from other EU member states to the hotspots. The resulting fusion and concentration of information and operational co-operation should maximise the impact of the support provided to that member state.

Smuggling is a very important aspect of the hotspot concept. We would expect strong co-operation between FRONTEX and Europol, as well as Eurojust, to enable long-term investigations into cases of migrant smuggling and the identification of the smugglers.

In addition, as part of the EU Action Plan against Migrant Smuggling, the Commission has launched a counter-group of EU agencies on migrant smuggling. It meets regularly and brings together all relevant agencies—FRONTEX, Europol and Eurojust, as well the European Maritime Safety Agency and CEPOL. The next meeting is tomorrow and we are going to discuss in Brussels the setting of criteria for the identification of suspect vessels. For instance, we will discuss launching work together on financial aspects in order to achieve better co-operation in tracing, tracking and freezing smugglers' assets. A third way in which we imagine there will be stronger inter-agency co-operation is through the setting up of co-operation platforms in key third countries, such as Turkey, or in other important transit countries for irregular migration. We are planning to bring together from around the EU delegations all relevant actors deployed in that region or country, be it FRONTEX liaison officers, Europol liaison officers, member state liaison officers, immigration liaison officers or European migration liaison officers, who will be deployed soon. Again, the idea is to ensure that information circulates and that we achieve maximum impact through the dissemination of that information.

Baroness Massey of Darwen: Could you say more about the use of ICT, including social media, in all this? I am not clear how widely spread this is, although I guess that it is

widespread. Is it possible to track down who the smugglers are by hacking into their systems? How widespread is it?

Fabrice Leggeri: For the time being, what FRONTEX has found out is that smugglers are doing organised advertising on the internet; in Turkey, for instance. They act like travel agencies—selling tickets and giving the schedule of the boats. So this is really organised like a normal business, a travel agency. This is what FRONTEX can monitor every day and then, of course in co-operation with the countries of origin and Europol including JOT Mare, we can exchange information and this kind of risk analysis in order to help and support law enforcement agencies to investigate the cases. It is also a way for FRONTEX to anticipate how irregular migrants will arrive at the external borders.

Q66 Lord Soley: In the action plan, the European Commission said: “Additional actions to fight migrant smuggling will be undertaken over the next years to target this rapidly changing crime”. Do you have any idea of the nature, scope and extent of what it anticipates doing?

Dana Spinant: Thank you for this question. We put that in the action plan on smuggling in order to clarify that we were going to remain alert in order to adapt the actions that need to be taken to the rapidly changing nature of this crime, and in order to indicate that we will be adapting and introducing new actions as necessary. For the moment, the focus is on the implementation of the 25 or so actions that we specifically proposed in the action plan. However, changes have already happened. For instance, after the initial focus or concentration of activity in the Mediterranean, now we are seeing more and more instances of smuggling concentrated within the Schengen area, on land, due to secondary movement and due to the fact that the migrants have a different destination in mind as their final destination. Of course, Calais has become much more prominent over the past months. This was why we wanted to communicate that we were going to stay vigilant and that other actions may be necessary. We discuss all these developments in the contact group with EU agencies to see what actions are necessary.

Lord Soley: I am not quite sure what else you are going to do. I do not know if you can give examples of particular things you are planning on doing. Also, is it going to be financed by the Commission? Is extra finance going to be available or are you going to have to redesign your current budget?

Dana Spinant: Some of the actions included in the *EU Action Plan against Migrant Smuggling* will be financed through EU financial instruments; for instance, instruments under the home affairs policy area, such as the ISF.

Fabrice Leggeri: Internal Security Fund.

Dana Spinant: Internal Security Fund, thank you. We use so many acronyms in-house, one has to ask somebody from outside to know the real name! But others are to be financed by the member states themselves because the action plan on smuggling does not set out only the actions that will be taken at EU level but the actions to be taken at local, regional, national and international level. This is why the financing will be mixed, as the efforts will be.

Lord Soley: It is a sort of evolving pattern that you are describing. I still can't see any thrust. When you say you are going to do these extra things, that is a bit of a general statement.

Dana Spinant: Yes, but it could also mean that many new evolutions will unfold the need for differentiated action. For instance, in November we will have a major summit with African countries where we will have discussions with countries that are members of the Khartoum process, under which trafficking in human beings and migrant-smuggling is a priority for

action. We may together identify the need to launch a form of co-operation or action which we had not foreseen.

Lord Soley: That is a good, helpful example and I am grateful for it but it would also need quite a bit of money to help those countries.

Dana Spinant: It might but quite a bit of money is already foreseen for supporting co-operation with African countries. The summit in Malta is likely to approve a trust fund with a sizeable budget to finance co-operation not only on migrant-smuggling and trafficking in human beings but on other aspects of irregular migration, including the return, readmission and reintegration of migrants to their home countries.

Lord Cormack: Can I just ask how sizeable is “sizeable”?

Dana Spinant: That is outside my team’s hands. We are in the preparation stage but the latest figure I have heard in relation to the trust fund to be approved at the Valletta summit is something like €1.5 billion.

The Chairman: Billion?

Dana Spinant: In that area, yes.

Fabrice Leggeri: If I may add something on the co-operation with African countries, at the operational level FRONTEX has already started AFIC—the Africa-FRONTEX Intelligence Community—which works at operational level to exchange relevant information on smuggling and irregular migration. It is the beginning but if it is then backed by this broader political support by the EU, as mentioned by my colleague, we will have a full range of activities from the political to the operational level.

Q67 Lord Condon: We would like to understand a bit more how FRONTEX is changing. The EU action plan foresees a strengthened role for FRONTEX. We would like to understand how that change process is taking place. How will your mandate and your resources change? Perhaps you could give us some idea of the current staff numbers you have, your budget and how those will change over time to deliver the new mandate.

Fabrice Leggeri: The means dedicated to FRONTEX have increased this year. This was a substantial increase of the budget. For instance, in December last year the plan was to have a budget up to €95 million in 2015 but in April, after the European Council conclusions, the EU budget authority decided to increase FRONTEX’s budget. For this year, it is €142 million. For next year, it is planned to be up to €176 million.

Lord Condon: And staff numbers now—and then?

Fabrice Leggeri: Staff numbers have already increased this year. The EU budget authority authorised FRONTEX to recruit 16 additional temporary agents. Because of that, FRONTEX is also allowed by the management board of the agency to recruit more contract agents, which is another category. It can also recruit other seconded national experts, which is another category.

Taking into account all the different categories of staff members, this year we will have approximately 330 or 340 staff in the headquarters in Warsaw. In addition, the officers who are seconded by the member states and who participate in operations are not staff members of the agency. For instance, in Italy approximately 100 officers are deployed by FRONTEX at the moment. In Greece between 85 and 90 officers are co-ordinated by FRONTEX. If we include the crew of the trawlers and aircraft, there are more people.

Regarding the future, I had talks with, let us say, high-level officials in the Commission. In the light of the Council meeting that took place this week, my guess is that FRONTEX will very likely be authorised to recruit more staff members. Concerning the mandate, of course it is up to the Commission to table new legislation, but we are co-operating closely with the Commission. It has already been announced that a returns policy will be one of the main changes in order to increase the mandate of FRONTEX to return people but also to support member states in their pre-return actions. For instance, the screening of migrants could be used to ascertain their nationality. It is extremely important that that is done upon arrival of the migrants at the external borders so that we can start negotiations with the countries of origin and get the travel documents. To return migrants, we need the travel documents. This is an area of activity where it is very likely that the mandate will be extended.

The Commission—this was in the migration agenda produced by the Commission earlier this year and it was also in President Juncker’s speech last week—proposed going forward with a European system of border guards that could also be linked with an EU coastguard function. These are proposals or ideas which are being discussed by the Commission and FRONTEX in an informal and co-operative way. In my view, as the Executive Director of FRONTEX, there is a need to strengthen the agency and a need for better and enhanced integrated border management. Integrated border management would also cover actions in third countries. We are also in touch with the Commission and member states. For instance, this year FRONTEX will deploy, for the first time, a liaison officer in Ankara. It was introduced four years ago in a FRONTEX regulation but it has never been implemented, so this will be the first case. Next year, FRONTEX will have the opportunity and the means to deploy additional liaison officers in very strategic areas—probably in north Africa and the western Balkans, for instance.

Lord Condon: With regard to a change of mandate in relation to the return of irregular migrants, when is the earliest that you think you would get a lawful mandate to carry out that return policy?

Dana Spinant: I think I can answer that. We are looking at expanding the involvement of FRONTEX in the returns policy under its current mandate with additional resources, as Fabrice has said—both funding and human resources. We are also looking at expanding the legal mandate to substantially scale up its support to member states in carrying out returns.

The Commission has already started work on revising the legal mandate of FRONTEX and we are planning to put the legislative proposals on the table before the end of this year.

Q68 Baroness Pinnock: Thank you for the very clear description of expanding FRONTEX in relation to irregular migrants. How do we ensure that there are sufficient safeguards so that the humanitarian rights of refugees and asylum seekers are not infringed?

Fabrice Leggeri: As far as FRONTEX activities are concerned, there are different ways of ensuring that. The first is that the European Charter of Fundamental Rights applies to FRONTEX. Then there is democratic control through the European Parliament. For instance, yesterday I was interviewed by the LIBE Committee of the European Parliament in Brussels. We had in-depth discussions on the implementation of the new regulation on maritime borders. What was at stake, among other issues, was precisely the fundamental rights of migrants at sea. Internally in FRONTEX, we have a Fundamental Rights Officer. This person is independent but works in the agency, and her role is inter alia to make recommendations to the Executive Director of FRONTEX on fundamental rights issues. For instance, when I get so-called serious incident reports, these are shared with the Fundamental Rights Officer, especially when there is an assumption that fundamental rights might have been violated, and

the Fundamental Rights Officer can carry out an independent investigation into what happened. This is also a way of promoting and ensuring the fundamental rights of migrants.

In addition, there is a so-called consultative forum composed of different NGOs, as well as institutions such as the Council of Europe and the EU Fundamental Rights Agency, so that we can also get a strategic recommendation. For instance, when the plan for operations is being prepared, I can consult the forum. The Fundamental Rights Officer is in the loop anyway and can make recommendations.

Dana Spinant: I want to go beyond FRONTEX's involvement in and written policy on ensuring the protection of the fundamental rights of migrants or returnees. This is a very important question and it is one of the key concerns of the EU Action Plan against Migrant Smuggling. One of its stated aims is to prevent the exploitation of migrants by ruthless criminal networks. There are several ways in which this is ensured throughout the key aspects of the action plan against smuggling. For instance, it is envisaged that the Commission will explore whether it is necessary to expand the scope of a key EU instrument—Council Directive 2004/81/EC—on residence permits granted to victims of trafficking in human beings in order to enable it to be used more extensively, including in cases of smuggled migrants. It would enable member states to provide temporary residence permits to smuggled migrants who co-operate with authorities in investigations into migrant smuggling.

On the other hand, EU legislation foresees protection for migrants, as well as particular protection for the vulnerable, being dependent on their legal status. The EU legislation on asylum has very specific provisions regarding assistance to asylum seekers, including healthcare, subsistence support and so on. Irregular migrants need to be returned to their countries of origin, and this is part of a written procedure. There is also EU legislation—the returns directive—which envisages the provision of emergency healthcare and the meeting of basic needs. Beyond that, existing EU legislation already provides for the protection of rights, particularly for the vulnerable.

Q69 Baroness Janke: You gave a very full answer when you were talking about the legal powers for FRONTEX regarding returns. On safeguards, you have mentioned support and rights in connection with healthcare. What sorts of rights will migrants have under the new legal procedure on returns?

Dana Spinant: We already have EU legislation on the way in which returns of irregular migrants are organised from EU member states to their countries of origin. For the moment, we are not planning to touch that legislation, which is the EU returns directive. However, we will be conducting an evaluation of this instrument in 2017 at the latest. If it is proved necessary and appropriate, we will then make legislative proposals to amend that legislation. This is the legislation that provides the protection, rights and safeguards to ensure that returnees go through a process that is fair and transparent and that their fundamental rights and dignity are respected. The procedure and safeguards regarding returns will not be part of the revision of the legal framework of FRONTEX. Of course, any provision regarding the involvement of FRONTEX in the process of the return of irregular migrants will be matched by safeguards concerning fundamental rights, as is already the case in the FRONTEX legal basis.

The Chairman: The action plan also proposes the involvement of FRONTEX in asylum assessments to gather information on smuggling. How would that work in practice?

Fabrice Leggeri: In practice, the assessment is made by FRONTEX on the spot because we can debrief migrants in operations such as Operation Triton in Italy and Operation Poseidon in Greece. We can assess the situation and changes in the migration routes, for instance. We

can get this kind of intelligence and then we can prepare some analytical reports, which are shared with the member states and EU stakeholders—the Commission, Europol and especially Eurojust—so that FRONTEX as an agency can contribute to the overall assessment of the situation.

The Chairman: What I want to get clear is that when the assessments are being made, will a FRONTEX person be in that meeting or will they be getting the information later? How would that work in practice?

Fabrice Leggeri: FRONTEX is invited to attend meetings in Brussels. We have meetings every week at different levels—the Commission, DG Home Affairs, some other agencies in Brussels and now the new EU Regional Task Force.

The Chairman: I understand that a pilot project is under way on how this intelligence will be gathered.

Fabrice Leggeri: A pilot project on trafficking?

The Chairman: It is the pilot activity of the EASO—the European Asylum Support Office—aiming to gather information and intelligence on smuggling.

Fabrice Leggeri: On smuggling, we have co-operation with Europol in the context of JOT Mare. We also have the EU Regional Task Force, which now provides in Catania—and, I hope, very soon in Greece—the opportunity to exchange information in real time. We also have interagency co-operation with EASO in order to share the aggregated data so that we can have an overall assessment of the situation. The individual personal data will be shared with Europol, as I mentioned earlier, and the overall analytical situation is shared with EASO.

Lord Wasserman: Does FRONTEX fingerprint the people as it is interviewing them? Do you have the power to take people's fingerprints?

Fabrice Leggeri: FRONTEX is preparing a pilot project in co-operation with eu-LISA—the EU agency in charge of ICT—and EASO. The purpose of this co-operation is to make devices available for FRONTEX operations so that we can use them and we can deploy skilled officers who can support Member States in fingerprinting. FRONTEX contributes to the registration but, for the time being, for technical reasons the registration does not use Eurodac everywhere at the external borders.

Lord Wasserman: So at the moment when you interview people, you do not really know who they are.

Fabrice Leggeri: It is the first contact. For instance, when FRONTEX supports search and rescue or detects irregular migrants at the external border, there is a first screening to identify name and nationality. Then there is a voluntary (for the migrant) debriefing, also supported by FRONTEX, and what we have in mind now is to properly register the people in Eurodac.

Lord Wasserman: It is a bit late, is it not? I will tell you where I am going with this: you are quoted today in one of the English papers as saying that trafficking in Syrian passports is extremely lucrative and many people use them. Therefore, I wonder whether, without the fingerprints—I happen to be very interested in fingerprints—is it not difficult for you. You ask people something, they give you the answers but you do not know who you are talking to.

Fabrice Leggeri: That is true and that is why FRONTEX will improve the support to the host member states in this regard. In principle, according to EU law, the first responsibility for fingerprinting lies with the host member state. But, as it turned out in the last months—I was appointed in January so I could witness it—there were some shortcomings in procedures such as this in some host member states.

Lord Wasserman: That is what I heard. So the answer is that you are going to have the power quite soon but not just now.

Fabrice Leggeri: We are working on the technology.

The Chairman: Lord Ribeiro, to some extent your question has been answered but you have a supplementary?

Q70 Lord Ribeiro: To some extent, it has been answered, but you mentioned Catania—hotspots are the hot topic at the moment, it seems—and I wanted to know what lessons you have learned from Catania. You are moving on to Greece. One thing that was very obvious in Greece, which you touched on just now, was that many of the migrants were refusing to have their fingerprints taken, for the specific reason that they did not wish to use the Dublin arrangement to take refuge in the first port of call; they wanted to move on. So from what you have done in Catania, what lessons have you learned and how are you going to apply those in Greece when you set up your next hotspot, and then the next hotspot after that?

Fabrice Leggeri: Catania will be used as a pilot project in order to learn lessons. The main lesson so far is that there is a daily exchange of information, which is extremely careful, on the spot between FRONTEX and Europol in order to address the need for this exchange of personal data and operational and tactical data. There is also a need to co-operate with EASO to have a smooth work flow from FRONTEX to EASO. For instance, FRONTEX's role is to support the screening and debriefing—that means to interview the migrants—so FRONTEX is in the front line because we rescue them or detect them at the borders. Then, depending on the substance of the interview with the migrant, FRONTEX officers can assume that this specific person is in need of protection and they are handed over to national asylum authorities supported by EASO. If this person has been abused by traffickers or smugglers and has useful information for the investigation, we hand the information over to Europol. So the lesson so far is that this is extremely useful to have presence on the spot. This is in addition to the more institutional co-operation that exists between the headquarters—but this is on the spot in real time.

Lord Ribeiro: So you do not feel that what you have described, which I think is a very straightforward process, in any way intimidates or has some impact on those refugees who may well feel intimidated by it?

Fabrice Leggeri: I think that we need to explain clearly what will happen when the person is detected at the external border or has disembarked after search and rescue operations. If we explain that they have access to asylum if they are in need of protection, this should encourage people to talk and to tell the truth about what has happened to them.

Lord Ribeiro: I ask that specifically because there is a concern from some human rights organisations that this places undue stress on them. You have clarified that very carefully. I think, Dana Spinant, that you wanted to come in but you mentioned hotspots earlier.

Dana Spinant: In addition to what Fabrice has said—this is one of the lessons to retain regarding the implementation of hotspots—co-operation with the host countries is essential. The agencies are there to support those front-line member states, and the experts deployed by the other EU nations are also there to provide support. That is why it is important to have a very good and permanently open communication channel with the front-line countries. They are key as regards smuggling because they are the ones that will launch the investigations. The agencies will provide the information, smooth the information exchange and bring their analytical and operational capacities to bear, but it is the host member states that are in the front line, even as regards the investigation of smuggling.

Regarding the stress that this would place on migrants, the agencies all act within their mandates and with all due respect to the safeguards which are included within their mandates. Migrants are treated with dignity, again respecting the procedures and the safeguards.

Lord Chairman, earlier you mentioned the pilot project involving the European Asylum Support Office, whose aim is to see whether it can collect useful information on migrant smuggling in the asylum process. Very many safeguards are included. The search for information on migrant smuggling is carried out at the appropriate stage without interference and with due respect for the asylum process so as not to interfere with the rights of, and safeguards for, the asylum seekers. That is a very important point which we try to ensure is adhered to throughout the process from the moment the migrants are rescued or brought to land until the end. It is very important to provide them with information about their options and to be able to enlighten them about the possibility of returning to their home voluntarily and with dignity if they do not have a chance of claiming asylum in the EU. This is why we put an emphasis on, and new efforts into, providing information to migrants reaching the EU, not only on their options regarding asylum but also on their option of taking up assisted voluntary return instead of again falling prey to smugglers while making secondary movements within the EU.

Lord Ribeiro: Finally, there is a very clear statement from the Council President that, if the Catania pilot proves a success, you may have additional sites. Do you see these going upstream? I note in particular the suggestion that there may be centres in Niger and so forth that may act as transit camps. Do you see this as something that you can extend further up the field? It is a challenge.

Dana Spinant: The hotspot concept is devised for the European Union as a means of providing support to the front-line EU member states that have an external border of the EU. That type of support, with involvement by the agencies, is for the EU. You mentioned Niger, which is a different kind of pilot project—a laboratory. It involves another type of concentration of information and support with a multi-purpose centre through which the differentiated and necessary assistance is provided. Yes, we are looking at Niger as a laboratory, and if necessary—it probably will be necessary—we will be replicating that experience in other parts.

The Chairman: Time is rushing on. I think that to some extent the next two questions have been covered. Is there anything that you want to ask briefly?

Baroness Massey of Darwen: Very briefly, I have a question about co-operation. You have both spoken quite a bit about this. We have had some criticism from different witnesses about information-sharing and I would like to press you on this. The Commission regards integration and co-operation as key to success. Do you have anything to add to what you have said already, other than regarding hotspots, about FRONTEX and its co-operation with other EU agencies in the fight against smuggling? That has also been criticised as being a bit of a mess, with conflicting agendas and that kind of thing. Is there anything that you want to add to that?

Dana Spinant: As I mentioned briefly before, the other very important and very direct channel for co-operation and the exchange of information between EU agencies and FRONTEX on migrant smuggling is the counter-group on migrant smuggling, which the Commission launched earlier this year. It has already met once—in May—and it will meet again tomorrow. The aim is precisely to bring around the table all relevant agencies so that they can inform each other about what they have done and what information they have got their hands on regarding migrant smuggling, and so that together they can launch projects—for instance, setting up a list of matters of interest on migrant smugglers—and discuss how to

deal with websites through which information about migrant smuggling is being exchanged and through which customers, so to speak, are recruited for smuggling purposes. We believe that this has huge potential. It is basically a way of bringing the agencies together once a month or every second month. They, together with the Commission, have the possibility of setting the agenda and adapting it to evolutions. We believe that that is a very direct, straightforward and efficient way of co-operating.

Baroness Massey of Darwen: That sounds very good. Could we get minutes of that meeting?

Dana Spinant: I see no problem with that.

Baroness Janke: On the existing European policies—for example, the current defence policy—in relation to the statements about destroying smugglers' boats and so on, some of the people who have given evidence are concerned about any potential militarisation. What is your view on that?

Fabrice Leggeri: On an operational level, I stress that FRONTEX is a civilian agency, as you know. Nevertheless, in our operational plan it is clearly stated that the patrolling boats co-ordinated by FRONTEX should not leave migrants' boats adrift, so that they cannot be used again by smugglers or traffickers. However, FRONTEX cannot destroy the migrants' boats so it is up to national authorities in the host member states—Italy or Greece—in line with EU regulations and national law, to take steps to destroy, if this is necessary. Usually they first have to tow the boats to the shore and then destroy them in the port, in compliance with the legislation.

Q71 The Chairman: Moving on, what is the scope and timing of the facilitators package? Do you think the Commission intends to bring the EU legislative framework against migrant-smuggling more in line with the United Nations Protocol against the Smuggling of Migrants by Land, Sea and Air?

Dana Spinant: Thank you for this question. The Commission is working at this very moment on the evaluation of the legislative framework on migrant-smuggling—the so-called facilitators package, although the word facilitator may be slightly misleading because of its positive connotations. But we are having an in-depth look at the effectiveness, added value and value in general of this EU legislation. If necessary, we will come forward with fresh legislative proposals to amend it some time next year. This is the plan. It is for 2016. I cannot prejudge the result of the current evaluation but I can tell you that we are looking at ways to bring it in line with the UN protocol against migrant-smuggling. We are also looking at ways to strengthen the criminal sanctions—the penal framework—against migrant-smugglers, while at the same time making it more differentiated in order to clearly exclude from criminal sanctions organisations that provide humanitarian assistance to migrants, for instance. Clearly, this is one of the aims but we are in the process of evaluating and assessing the impact of the options we have and will come forward with the proposals next year.

The Chairman: When are you likely to finish the evaluation?

Dana Spinant: I think it will be mid-next year. At the same time we will publish the results of the evaluation, the impact assessment and the fresh legislative proposals.

Q72 Lord Soley: Thank you. I think you have given us a good idea of the funding issues. I want to ask about stronger co-operation with third countries because it is a very important but very complex area. The way you might co-operate with a country that has a structure of government and law is very different from how you might co-operate with one that does not,

such as Libya. Can you give us any idea as to how you differentiate and how you plan to work with virtually collapsed countries such as Libya?

Dana Spinant: Co-operation with third countries is one of the key pillars of the action against migrant-smuggling. It is the fourth part of the action plan on migrant-smuggling and it is a cross-cutting issue. Very few of the actions that we envisage are possible without co-operation from third countries because this is an international business that we are dealing with. We need to end impunity for smugglers across the whole migratory route. How do we intend to do that? The exchange of information with those countries is essential. Capacity building for those countries is crucial. We are planning to use the ability that we have under existing EU financial instruments, either in the home affairs area or under development co-operation, to build the capacity of those countries to identify, trace, investigate and prosecute migrant-smuggling cases. Of course, for that you need to have a Government in place. You mentioned Libya—this is one of the problematic issues because lots of smuggling takes place through Libya. Under the EU policy cycle on organised crime, one of the actions envisaged was a pilot project to deploy a person to Libya to help with the investigation of and the exchange of information on those cases. That has not been possible so far. We have very established co-operation under the Khartoum process with countries in the Horn of Africa. We get together regularly; for instance, a senior officials' meeting is planned to take place soon in the UK. We very much support and substantially finance that co-operation with those countries and the building of their capacities on migrant-smuggling. We need a Government in place in order to be able to share information and co-operate operationally.

The Chairman: I think that is all. Is there anything you want to add?

Fabrice Leggeri: Just to confirm what Dana has said concerning Libya, for the time being FRONTEX has had to suspend the efforts to establish co-operation. FRONTEX had been working to a certain extent with EUBAM Libya but this mission was suspended two years ago because of the insecurity in Libya. At operational level, of course, where we have counterparts in third countries—I have mentioned Turkey; there are also the western Balkans, Morocco, Tunisia, Egypt soon probably, and other countries on the African continent—FRONTEX develops operational co-operation in the field of training and the exchange of intelligence, risk analysis and good practice in terms of border management and migration management but also the rule of law and fundamental rights. As a matter of principle, FRONTEX develops co-operation which aligns with EU external policy.

The Chairman: Thank you very much indeed for your very full and comprehensive answers. We are very grateful that you have taken the time this morning. As I said, if there is anything further you wish to send us, please feel free. If you do not mind, if we feel there is further information we want to elicit from you, we may write to you. Thank you very much indeed.