



EUROPEAN COMMISSION

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*Mr Radek VONDRÁČEK
President of the
Poslanecká sněmovna
Sněmovní 4
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Dear President,

The Commission would like to thank the Poslanecká sněmovna for its Opinion on the proposal for a Regulation of the European Parliament and of the Council on the European Border and Coast Guard and repealing Council Joint Action n°98/700/JHA, Regulation (EU) n° 1052/2013 of the European Parliament and of the Council and Regulation (EU) n° 2016/1624 of the European Parliament and of the Council – A contribution from the European Commission to the Leaders' meeting in Salzburg on 19-20 September 2018 {COM(2018) 631 final}, and the Amended proposal for a Regulation of the European Parliament and of the Council on the European Union Agency for Asylum and repealing Regulation (EU) No 439/2010. A contribution from the European Commission to the Leaders' meeting in Salzburg on 19-20 September 2018 {COM(2018) 633 final}.

These proposals form part of a broad Migration package of ambitious measures designed to effectively and efficiently address migratory challenges in the European Union.

The new proposal on the European Border and Coast Guard is in line with the European Council conclusions of June 2018 on the need to achieve a more effective control of the Union's external borders by strengthening the European Border and Coast Guard (EBCG) and providing it with 'increased resources and an enhanced mandate'¹.

As a major game changer, the proposal introduces a standing corps of 10 000 operational staff with own equipment and expanded tasks to carry out border control, to be put at the disposal of the Agency and to support Member States whenever they face border management challenges. It is to be composed of three categories of staff: as a major novelty, staff of the Agency; staff seconded by the Member States for long-term periods and staff seconded by the Member States for short-term periods.

¹ European Council meeting Conclusions, 28 June 2018,
<https://data.consilium.europa.eu/doc/document/ST-9-2018-COR-1/en/pdf>

While the current European Border and Coast Guard Regulation² is being properly implemented, it has become evident that certain gaps still exist, preventing the European Union border agency from rolling out its full potential in support of the Member States. These persistent gaps include mainly the limitations in human resources and technical equipment available to the Agency that are at present based on voluntary contributions by the Member States. These contributions have often proven to be insufficient and have compromised the level of support provided by the Agency. The main objectives of the new proposal are to address these deficiencies and to guarantee a permanent flexible solution for the Agency to enable it to support any Member State in ensuring effective and efficient external border control whenever it needs it.

The Commission is pleased that the Poslanecká sněmovna welcomes the initiative to strengthen the protection of the Union's external borders and the effectiveness of return procedures at Union level. The Commission appreciates the support of the Poslanecká sněmovna on strengthening the European Border and Coast Guard, in particular, regarding returns and cooperation with third countries as well as on integrating the European Border Surveillance System (EUROSUR) and the False and Authentic Documents Online (FADO) system into the draft Regulation.

The Commission confirms that the proposal does not alter the responsibilities of the Member States on border control and that the Member States retain the primary responsibility for border management. It also reassures the Poslanecká sněmovna that the proposal respects the national capacities of the Member States to carry out border control and return-related tasks. The proposed contributions per Member State reflect the distribution mechanism currently in place for the Rapid Reaction Pool that all Member States have agreed upon. Moreover, the new Category 1 staff, i.e. personnel of the Agency, proposed as a key element of the European Border and Coast Guard standing corps, once established, would aim to alleviate the burden on the national border management systems.

With respect to the amended proposal for a Union Agency for Asylum, the Commission is pleased to see that the Poslanecká sněmovna supports the maintenance or extension of the support and coordination role of the Agency.

This proposal comprises targeted amendments to the provisional agreement found by the co-legislators in June 2017 on the proposal for a Regulation on the European Union Agency for Asylum and repealing Regulation (EU) No 439/2010, which the Commission presented on 4 May 2016³. The targeted amendments focus, inter alia, on the provisions on operational and technical assistance to ensure that, at the request of the Member

² Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard and amending Regulation (EU) 2016/399 of the European Parliament and of the Council and repealing Regulation (EC) No 863/2007 of the European Parliament and of the Council, Council Regulation (EC) No 2007/2004 and Council Decision 2005/267/EC; OJ L 251, 16.9.2016, p. 1–76.

³ COM(2016) 271 final).

State, the Agency can provide Member States with support in the entire administrative procedure of international protection, or parts thereof.

The proposal emphasises that the assistance to be rendered by the European Union Asylum Agency (EUAA) in the preparation of decisions on applications for international protection is to be provided to the competent national authorities, who would be responsible for taking decisions on individual applications. Therefore, such assistance is without prejudice to the competence of the Member States to take decisions on individual applications. With respect to the provisions concerning assistance to the judiciary, the Commission proposal foresees that such assistance is to be requested by the Courts and Tribunals and is with full respect to judicial independence and impartiality with handling of appeals.

The Commission would like to thank the Poslanecká sněmovna for its Opinion that has been made available to the Commission representatives in the ongoing negotiations with the co-legislators, the European Parliament and the Council, and will inform these discussions. Discussions between the Commission and the co-legislators concerning the proposals are now underway. The Commission remains hopeful that an agreement will be reached as soon as possible.

The Commission hopes that these comments address the issues raised by the Poslanecká sněmovna and looks forward to continuing our political dialogue.

Yours faithfully,

*Frans Timmermans
First Vice-President*

*Dimitris Avramopoulos
Member of the Commission*