



EUROPEAN COMMISSION

*Brussels, 19.2.2019
C(2019) 1386 final*

Dear President,

The Commission would like to thank the Sénat for its Opinion on:

- *Communication from the Commission to the European Parliament on preserving and strengthening Schengen {COM(2017) 570 final}*
- *Proposal for a Regulation amending Regulation (EU) 2016/399 as regards the rules applicable to the temporary reintroduction of border control at internal borders {COM(2017) 571 final}*
- *Proposal for a Regulation on establishing a framework for interoperability between EU information systems (police and judicial cooperation, asylum and migration) + (borders and visas) {COM(2017) 793 final} – {COM(2017) 794 final}*
- *Proposal for a Regulation amending Regulation (EC) No 810/2009 establishing a Community Code on Visas (Visa Code) {COM(2018) 252 final}*
- *Communication from the Commission on A Modern Budget for a Union that Protects, Empowers and Defends - The Multiannual Financial Framework for 2021-2027 {COM(2018) 321 final}*
- *Progress Report on the Implementation of the European Agenda on Migration {COM(2018) 301 final}*
- *Proposal for a Regulation establishing the Asylum and Migration Fund {COM(2018) 471 final}*
- *Proposal for a Regulation establishing, as part of the Integrated Border Management Fund, the instrument for financial support for border management and visa {COM(2018) 473 final}*

*M. Jean BIZET
Président de la Commission
des affaires européennes du Sénat
Palais du Luxembourg
15, rue de Vaugirard
F – 75291 PARIS Cédex 06*

*cc. M. Gérard LARCHER
Président du Sénat
Palais du Luxembourg
15, rue de Vaugirard
F – 75291 PARIS Cédex 06*

- *Proposal for a Regulation establishing, as part of the Integrated Border Management Fund, the instrument for financial support for customs control equipment {COM(2018) 474 final}*
- *Fifteenth Progress Report towards an effective and genuine Security Union {COM(2018) 470 final}*
- *Proposal for a Regulation 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}*
- *Report on the evaluation of the European Border Surveillance System (EUROSUR) {COM(2018) 632 final}*
- *Amended proposal for a Regulation on the European Union Agency for Asylum and repealing Regulation (EU) No 439/2010 {COM(2018) 633 final}*
- *Proposal for a Directive on common standards and procedures in Member States for returning illegally staying third-country nationals (recast) {COM(2018) 634 final}*
- *Communication on Enhancing legal pathways to Europe: an indispensable part of a balanced and comprehensive migration policy {COM(2018) 635 final}.*

The above mentioned reports and legislative proposals form part of a broader set of ambitious measures designed to ensure free movement within the European Union, enhance the common migration and asylum policy, addressing both its internal and external dimensions and ensure a higher level of security in the European Union.

The Commission welcomes the support of the Sénat for an area without internal borders, which offers Union citizens the possibility to exercise their right to freedom of movement, a cornerstone of European integration. The Commission remains convinced of the need to modify the rules applicable to the temporary reintroduction of border controls at internal borders to ensure that such controls are introduced only for as long as necessary and in a proportionate manner. The reintroduction of border controls at internal borders should be a measure of last resort, applicable only when alternative measures would not be as effective.

Strengthening the European Union's external borders is an intrinsic part of the Commission's comprehensive approach as set out in the European Agenda on Migration of May 2015 {COM(2015) 240 final} and its implementation.

The Commission appreciates the Sénat's support regarding the strengthening of the mandate of the European Border and Coast Guard Agency. The Commission confirms that the relevant provisions regarding national sovereignty remain unchanged in the legislative proposal. This proposal does not – in any circumstances – override the

national prerogative of the Member States to carry out border controls, but it will give the Agency the necessary operational means to strengthen support to Member States when faced with challenges at their borders.

Regarding the asylum package, there has been significant progress over the past two years and there is broad political agreement on five out of the seven Commission proposals. The Commission considers that the adoption of these five proposals should not be further delayed. In parallel, a strong political push is needed to conclude the full reform, including the Asylum Procedures Regulation and the Dublin Regulation. In relation to the Asylum Procedures Regulation, the Commission considers that harmonised rules on safe third countries, including harmonised procedural consequences of applying the safe third country concept, are a critical aspect of an efficient common procedure.

Following the conclusions of the June 2018 European Council, the Commission issued a concept paper on the controlled centres. Such centres are not the single solution for all situations, but should be seen as a flexible concept that, in practical terms, can improve the management of mixed migratory flows and limit secondary movements. The Commission is ready to mobilise all the necessary financial and technical resources to support the implementation of the concept of controlled centres.

The Commission also shares the view of the Sénat that an effective European migration policy should progress in parallel through deeper cooperation with the countries of origin and transit of migrants and the implementation of the commitments and arrangements already in place.

Regarding the Visa Code, the Sénat supports the codification of the link between the application of certain rules and procedures and the cooperation of third countries in the field of readmission but underlines the progressive application of possible restrictive measures. The Commission's proposal offers this flexibility because, if the mechanism is triggered, the precise measures will be adopted by means of an implementing act and adapted to the situation in specific cases. The Commission has ruled out the option of a positive leverage mechanism which is considered difficult to manage. A majority of Member States supported this choice, especially as the full application of the proposed new facilities constitutes an incentive for good cooperation on return.

The Commission welcomes the Sénat's support for the revision of the Return Directive. The objective of the recast proposal is to increase the effectiveness of national systems for the removal of irregular migrants, while ensuring full respect for fundamental rights, including the best interests of the child and family life, the right to an effective remedy and the principle of non-refoulement. It is of utmost importance for the Commission that these rights are included in the final text to be adopted by the European co-legislators, the European Parliament and the Council.

Regarding interoperability, the Commission welcomes the support expressed by the Sénat for the objectives of the proposals, namely to strengthen internal security and address illegal immigration, while ensuring a high level of protection of personal data.

The Commission underlines that interoperability will facilitate but not extend access to the underlying data, in particular as regards the European agencies, which will remain governed by the provisions of the legal bases of the underlying systems.

In the proposals for the next Multiannual Financial Framework, the Commission aims at better equipping the Union to cover the needs in the migration and security areas and to address potential unforeseeable events. The proposals include the means to develop significantly the European Border and Coast Guard and reinforce overall the Union budget for the management of external borders, asylum, migration and security. Investments in Information Technology systems, their interoperability and communication networks are high priorities in the areas of migration, border management and security. Certain Information Technology investments may even benefit from higher co-financing than the standard rate.

Discussions between the Commission and the co-legislators concerning the above-mentioned proposals are now underway and the Commission remains hopeful that agreements on all these proposals will be reached in the near future.

The Commission hopes that these clarifications address the issues raised by the Sénat and looks forward to continuing the political dialogue in the future.

Yours faithfully,

*Frans Timmermans
First Vice-President*

*Dimitris Avramopoulos
Member of the Commission*