



EUROPEAN COMMISSION

*Brussels, 12.8.2016
C(2016) 5293 final*

*Mr Stanislaw TILLICH
President of the Bundesrat
Leipziger Straße 3 - 4
D – 10117 BERLIN*

Dear President,

The Commission would like to thank the Bundesrat for its Opinion on the Communication from the European Commission to the European Parliament and the Council: Towards a reform of the Common European Asylum System and enhancing legal avenues to Europe {COM(2016) 197 final}.

The Communication sets out steps to be taken towards a more humane, fair and efficient European asylum policy, as well as a better managed legal migration policy.

The large-scale, uncontrolled arrival of migrants and asylum seekers in 2015 has exposed weaknesses in the design and implementation of the Common European Asylum System, and of the 'Dublin' arrangements in particular. The Communication addresses these structural shortcomings by proposing improvements in five priority areas. The Commission is pleased that the Bundesrat agrees that the five areas of action identified should be given priority and that it shares the view that action at the EU level as envisaged in the Communication is required to regain control over the refugee situation in the EU. Structural weaknesses in the design and implementation of the current Common European Asylum System and migration policy require effective measures for better medium- and long-term management of migration in the EU.

The Commission has taken due note of the views expressed by the Bundesrat in its Opinion. Several issues have already been addressed in the first package of legislative proposals presented by the Commission on 4 May 2016. This legislative package encompasses proposals for the reform of the Dublin III Regulation, for reinforcing the Eurodac system and for establishing a European Union Agency for Asylum.

The proposal for the reform of the Dublin system¹ aims to streamline the Dublin Regulation and improve its efficiency as well as introduce a corrective allocation mechanism to ensure a sustainable and fair sharing of responsibilities between Member States. The mechanism will be activated automatically in cases where Member States would have to deal with a disproportionate number of asylum applications.

¹ COM(2016) 270 final.

As regards the prevention of secondary movements within the EU, the proposal provides for an obligation for the asylum seeker to lodge his or her application in the Member State either of first irregular entry or, in the case of legal stay, in the Member State where the person is legally present. The applicant will be also obliged to be present and available to the competent authorities of the Member State in which he or she is obliged to stay. In case of non-compliance, the proposal sets out the procedural consequences and clarifies that the applicant will only be entitled to material reception rights where he or she is required to be present.

The proposal for the recast of the Eurodac Regulation² adapts the system to the proposed Dublin rules and extends the scope of the Eurodac system beyond asylum purposes for facilitating return and tackling irregular immigration. In addition to fingerprint data, Member States will be required to collect a facial image as a further biometric identifier.

The proposal for a European Agency for Asylum³ aims to improve the implementation and functioning of the Common European Asylum System by building on the work of the European Asylum Support Office (EASO) and develop it into an Agency which will be responsible in particular for ensuring convergence in the assessment of applications for asylum across the Union, and for monitoring the operational and technical application of the relevant Union law. The new Regulation will provide a solid legal, operational and practical framework for the Agency to be able to reinforce and complement the asylum and reception systems of the Member States. The Commission notes that the Bundesrat intends to evaluate that proposal in-depth. The costs related to the new Regulation are indicated in the legislative financial statement which is attached to the proposal.

The Commission would also like to draw the Bundesrat's attention to the recently adopted second asylum package setting out proposed reforms to the Asylum Procedures Directive⁴, the Qualification Directive⁵ and the Reception Conditions Directive⁶. In drawing up its proposals, the Commission has taken into account the need for greater convergence as regards the reception standards and the decision-making process in the Member States, in full respect of transparent asylum procedures and guarantees for effective legal remedies. As part of the second Asylum package, the Commission has also presented a proposal framing the EU's policy on resettlement, providing a common approach to the safe and legal arrival of people in need of protection in the EU⁷. With this second package, all the elements for the reform of the Common European Asylum System are now on the table of the co-legislators.

The Commission looks forward to continuing the political dialogue in the future.

Yours faithfully,

*Violeta Bulc
Member of the Commission*

² COM(2016) 272 final.

³ COM(2016) 271 final.

⁴ COM(2016) 467 final.

⁵ COM(2016) 466 final.

⁶ COM(2016) 465 final.

⁷ COM(2016) 468 final.