

OPINION

on

The new Pact on Migration and Asylum

[proposals for Regulations COM (2020) 610 final / 23.09.2020, COM (2020) 611 final / 23.09.2020, COM (2020) 612 final / 23.09.2020, COM (2020) 613 final / 23.09.2020, COM (2020) 614 final / 23.09.2020]

The members of the Standing Committee on European Affairs and the Standing Committee on Public Administration, Public Order and Justice, at a joint meeting (5.3.2021)

Taking into consideration:

- articles 77 par. 2 lit. b) and d), 78 par. 2 lit. c), d), e) and g), 79 par. 2 lit. c), 80, 87 par. 2 lit. a), and 88 par. 2 lit. a) of the Treaty on the Functioning of the European Union;

- Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on the Union Code relating to the status of persons crossing the border (Schengen Code)

- the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of Regions on a new Pact on Migration and Asylum [COM (2020) 609 final / 23.09.2020],

- the proposal for a Regulation of the European Parliament and of the Council "on asylum and migration management and amending Council Directive (EC)2003/109 and the proposed Regulation (EU) XXX / XXX [Asylum and Migration Fund]" [COM (2020) 610 final / 23.09.2020],

- the amended proposal for a Regulation of the European Parliament and of the Council establishing a common procedure for international protection in the Union and repealing Directive 2013/32 / EU [COM (2020) 611 final / 23.09.2020],

- the proposal for a Regulation of the European Parliament and of the Council introducing a screening of third country nationals at the external borders and amending Regulations (EC) No. 767/2008, (EU) 2017/2226, (EU) 2018/1240 and (EU) 2019/817 [COM (2020) 612 final / 23.09.2020],

- the proposal for a Regulation of the European Parliament and of the Council addressing situations of crisis and force majeure in the field of migration and asylum [COM (2020) 613 final / 23.09.2020],

- the amended proposal for a Regulation of the European Parliament and of the Council on the establishment of “Eurodac” for the comparison biometric data for the effective application of Regulation (EU) XXX / XXX [Regulation on Asylum and Migration], and of Regulation (EU) XXX / XXX [Resettlement Regulation] for identifying an illegally staying third-country national or stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes and amending Regulations (EU) 2018/1240 and (EU) 2019/818 [COM (2020) 614 final / 23.09.2020],

-the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on "Action Plan for Integration 2021-2027" [COM (2020) 758 final / 24.11.2020] ,

- the European Parliament Resolution of 17 December 2020 on the implementation of the Dublin III Regulation,

- the opinion document No. 2010.0 / 75094/2020 / 9.11.2020 of the Staff Office of the Chief of the Hellenic Coast Guard, on the proposal of Regulation COM (2020) 613,

- the opinion document No. 1588 / 20/ 2475806 / 10.11.2020 of the Center for Integrated Border and Migration Management of the Hellenic Police Headquarters, on the proposal of Regulation COM (2020) 613 ,

- the opinion document No. 2010.0 / 77518/2020 / 18.11.2020, of the Chief of the Hellenic Coast Guard Headquarters, on the proposals of Regulations COM (2020) 610, 611, 612, 614,

- the opinion document No. 1604/20/2607736 / 28.11.2020 of the Migration Management Directorate of the Hellenic Police Headquarters, on the proposals of Regulations COM (2020) 610, 611, 612, 614,

- the opinion document No. 2326 / 23.12.2020 of the Secretary General for Migration Policy of the Ministry of Migration and Asylum, on the proposals of Regulations COM (2020) 610, 611, 612, 613, 614,

- the opinion document of the Secretary-General for Migration Policy dated 13.1.2021,

- the information note dated 26/02/2021 of the Coast Guard-Hellenic Coast Guard Headquarters of the Ministry of Shipping and Island Policy,

- the Asylum Service's document No. AP 2129 / 26.02.2021 (Ministry of Migration and Asylum) ,

- the information note dated 26/02/2021 of the Department of Institutional Operation of the Directorate of Migration Policy of the General Directorate of Migration Policy of the General Secretariat for Migration Policy of the Ministry of Migration and Asylum,

- the information note dated 01/03/2021 of the Border Control Department of the Border Protection Directorate, of the Aliens and Border Protection Division of the Hellenic Police Headquarters,

-the information note of the Directorate of Social Integration of the General Directorate of Migration Policy of the General Secretariat of Migration Policy of the Ministry of Migration and Asylum

Adopt by large majority the following opinion:

Considering that:

- The management of Migration and Asylum at the European Union level, in accordance with the principles of solidarity and fair sharing of responsibilities between Member States (Article 80 TFEU), aims to determine a more proportionate allocation of responsibility so far borne by

the first entry Member States and its fair distribution, based on Member States' population, economic, geographical and geopolitical particularities.

- The timely identification of a Member State responsible for examining an application for international protection, as well as the identification and return of those not meeting the relevant requirements, already at the stage of screening before entering the territory of the Union (proposed COM (2020) 611 and 612), helps to reduce the pressure of migratory flows at the borders of the first entry Member States, i.e. at the external borders of the EU, on condition of an effective return process, based on strong and viable bilateral EU agreements with third countries involved.

-Forms of solidarity, such as, primarily, the compulsory relocation of applicants for international protection, counterbalance the asymmetric responsibility of first arrival Member States, including disembarkation after maritime search and rescue operations resulting in large numbers of arrivals.

- Maritime search and rescue (SAR) is carried out by the authorities of states in the territorial waters of which they are conducted, within the framework of the Hamburg International Convention, with emphasis on the specific circumstances of each incident, so that the most suitable management and disembarkation of refugees and migrants be provided.

-First entry into EU territory, as a key criterion for identifying the Member State responsible for examining an application for international protection (COM (2020) 610, Articles 8-28), places an asymmetric burden on the first entry/arrival Member States receiving such application.

- Effective management of the return and readmission of those not in need of international protection requires the assistance of bodies such as the European Border and Coast Guard (FRONTEX), the proposed EU Asylum Agency (EUAA) and the European External Action Service, through incentives and disincentives, coherent, partner and mutually beneficial EU relations with countries of migratory flows' origin and transit.

- Supporting refugees in their countries of origin or in third countries is in line with the EU's humanitarian objectives, in combination with promotion of legal channels towards the Union, attracting talent to its labor market, but also resettlement or integration policy implementation into the European societies of third-country nationals meeting relevant requirements.

- Proposals for Regulations on: a) the EU Asylum Agency (EUAA) seeking to replace the existing European Asylum Support Office (EASO - Regulation 439/2010) on the Asylum Sector Review), b) the Recognition of Refugee Status, c) the Resettlement, d) the Eurodac biometric data system, as well as proposals for Directives on the reception conditions of applicants for international protection and Returns are pending from the previous round of negotiations. Elaboration of relevant texts has been completed to a large extent, yet lacking the required qualified majority for their adoption, as a number of Member States (Mediterranean MED-5, Visegrad V4) have the view that the aforementioned proposals and recent texts of the Pact should form a single set and a coherent response to the management of the Migration issue (package approach).

Deem that:

- Proposed Regulations are in line with the principle of subsidiarity.
- Draft legislation comprising the new Pact on Migration and Asylum, constitutes a package and must be adopted in its entirety.

- A coherent approach regarding adoption process is also appropriate regarding previous pending proposals related to the new Pact, which should be assessed as to whether they serve overall solidarity and fair distribution of responsibilities between Member States, as a condition for an effective asylum system, without secondary flows.

-Mandatory relocation in cases of third-country nationals or stateless persons mass influx, entering illegally or disembarking in the territory of a

Member State, following search and rescue operations, is the most appropriate measure of solidarity.

- The mandatory, as regarding first entry Member States, nature of procedures at EU external borders, including pre-entry screening procedures (proposal for Regulation COM (2020) 612), aiming in particular to avert secondary, unauthorized movement within the Union is asymmetric to flexible forms of solidarity alternatives offered to the rest of the Member States, moreover subject to successive assessments of the situation of the Member State of arrival and its migration management performance, and through complex decision-making processes, in which, the view of the Member State subjected to migration pressure, lacks decisive weight, (COM(2020) 610, articles 50 et seq.), especially due to the accumulation of third country nationals under process of screening at its borders. Furthermore, there is danger of establishing “limbo state” where people shall remain indefinitely, for an unknown period of time, a situation possibly putting at risk their fundamental rights.

- The mandatory establishment of an undefined number of permanent structures (locations) for accommodating refugees and migrants regarded as potential asylum seekers along external borders, following rescue, -yet in many cases carried out due to deliberate destruction of a maritime means of transport, putting human lives at risk- may be moreover functioning as a pullfactor for third-country nationals.

- The proposed pre-entry screening (proposal for Regulation COM (2020) 612), concerning third-country nationals having already crossed over external borders but deemed, based on law fiction, not to have entered the territory of the EU and the Member State of arrival, further to the mandatory -for the State of arrival-, establishment of additional reception and detention centers for those under process of identification and sorting, is problematic in terms of national security and national sovereignty in sensitive areas, but also in relation to the Schengen Borders Code, cancels in fact the border protection process, to prevent the entry of

those attempting to cross through unauthorized points and without legal documents, as provided by the Code, in order to ensure the integrity of the Schengen area.

- Return sponsorships especially of third-country nationals not meeting the right of stay nor residence must, as a "solidarity contribution" (proposal COM (2020) 610, Article 45), be effectively organized to be processed as soon as possible, via strengthened role of FRONTEX , EUAA and the European External Action Service, in conjunction to the strengthening of EU cooperation with key third countries, as the return sponsorship process can take up to eight months, during which third-country nationals- candidates for return must remain at the border.
- Turkey's full implementation of the EU-Turkey Joint Declaration (2016) provisions should be ensured before its possible revision and transformation into a legally binding EU-Turkey Pact especially for Migration which must meet the fundamental principles of international law. The new EU-Turkey Pact should address exclusively migration related issues and should not be connected to other issues such as customs union issues, visas, accession dialogue process, and must establish a mechanism for evaluating and monitoring implementation of terms agreed, ie Turkey's obligation to monitor and block migratory flows in its land territory and territorial waters, as well as to proceed effectively in dealing with and eliminate networks of illegal refugee and migrant trafficking from its territory, while EU financial support to Turkey should be provided with clear conditionality, in the logic of "more financial support for less flows" ("more for less").

- The Member State responsible for examining the application should be determined primarily on the basis of a set of criteria, further to first entry, namely, in order of priority, family reunion and reunification, best interest of a child, previous residence permits or visas, qualifications or degrees obtained in a Member State (proposal COM (2020) 610, Articles 14 et seq.), and the applicant to be transferred and remain in that State until

completion of his application processing, given that first entry into EU territory criterion asymmetrically burdens first entry Member States.

- The complex procedure for identifying "migratory pressure" on a Member State, based on a sheer volume of criteria (proposal COM (2020) 610, Article 50), works effectively in cases of repeated mass arrivals, only when attaching special importance and primarily considering the Member State's under pressure view, most notably in "crisis" or "force majeure" situations (proposal COM (2020) COM 613), calling for immediate and automatic response.

- MS solidarity contributions allocation key should include as additional criterion, further to a) population size (50% weight) and b) total GDP (50% weight) (proposal COM (2020) 610, Article 54), the Member State's aggregate land area.

- Address this opinion to the European Parliament, the Council and the European Commission in the context of political dialogue with the European institutions.

- Call on the Government to take these positions forward in the ongoing negotiations within the Council of the European Union.