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Standing Committee on

Foreign and European Affairs

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H.E. Ursula von der Leyen

President

European Commission

The Standing Foreign and European Affairs Committee, meeting on 2 March 2021, discussed 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.

The Standing Foreign and European Affairs Committee welcomes the initiative taken by the European Commission to propose a new Pact on Migration and Asylum. Migration and mobility can be manageable under a comprehensive, rights-based, grounded in partnerships and cooperation because a credible migration policy can only be achieved if it also respects international conventions on human rights. The Committee notes that the 2015 migration crisis revealed several shortcomings in the framework used by the EU to manage migration and asylum. Some Member States face the challenge of external border management, coping with large-scale arrivals by land or sea and overpopulated reception centres. The need for a revision of such a framework was evident during recent crisis situations, whereby some Member States experienced a large influx of migrants. It is evident that the EU needs to manage the different Member States' migration policies and facilitate a new and durable European framework, providing a comprehensive approach, bringing together policy in the areas of migration, asylum, integration and border management.

The Committee, acting in its scrutiny function, recognises that no Member States should shoulder a disproportionate responsibility and that all Member States should contribute to solidarity on a constant basis. The effectiveness of the New Pact depends on progress on all fronts to create faster, seamless migration processes and stronger governance of migration and border policies, supported by modern IT systems and more effective agencies. By reducing unsafe and irregular routes and promoting sustainable and safe legal pathways for those in need of protection, the New Pact can reinforce the reality that most migrants come to the EU through legal channels to match the EU labour market needs.

The Foreign and European Affairs Committee, after taking into consideration the proposal on the common procedure for international protection in the Union, notes that:

1. Most of the amendments made in this proposal are disconcerting because the application of an accelerated procedure and an asylum border procedure should be voluntary and at the discretion of the Member States. An asylum border procedure may be logical and commendable in theory, however the amended proposal demonstrates a lack of awareness of practical difficulties on the ground, particularly in the Mediterranean region. A mandatory asylum border procedure would make a significant difference to the return of persons who do not qualify for international protection. Nearly all migrants who enter the EU Mediterranean States irregularly are undocumented, which means that expeditious return is impossible to secure in most cases. Instead, it would be more practical to prioritise return of applicants coming from a low recognition rate country.
2. Since half of the arrivals in Malta, in 2019 and 2020, fall within the category for mandatory border procedures, the requirement for fast procedure is creating additional pressures on Maltese authorities. Moreover, the 12 week deadline being proposed does not take into account the large flows of mostly undocumented arrivals in a short span of time.
3. Considering the obligation of Member States to rescue arrivals who are in danger of drowning in their territory and disembark on land following the rescue, creating a “legal fiction” for arrivals not to be considered to have entered the territory when undergoing border procedure provides limited added value in enhancing returns. Instead it would create further burden to coastal Member States.

The Committee does not object to a joint decision rejecting an asylum application and a return decision as this would remove one level of appeal. The modalities pertaining to the appeal should remain the sole competence of Member States and not regulated at an EU level, with the most important thing being that an effective remedy is ensured. A mandatory asylum procedure for all arrivals falling within the category for mandatory border procedures will create additional burden on the frontline Member States and will necessitate investment and infrastructural changes at the national level.



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