



**ASSEMBLY OF THE PORTUGUESE
REPUBLIC**

EUROPEAN AFFAIRS COMMITTEE

Opinion

COM(2016)466

COM(2016)467

COM(2016)468

PART I - INTRODUCTION

Pursuant to Article 7 of Law No 43/2006 of 25 August 2006 on the scrutiny by the Assembly of the Portuguese Republic of matters relating to the process of EU integration, as amended by Law No 21/2012 of 17 May 2012, and in accordance with the Guidelines for the Scrutiny of EU Initiatives approved on 1 March 2016, the European Affairs Committee has received the following proposals:

- Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection and for the content of the protection granted and amending Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents [COM(2016)466];
- 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(2016)467];
- Regulation of the European Parliament and of the Council establishing a Union Resettlement Framework and amending Regulation (EU) No 516/2014 of the European Parliament and the Council [COM(2016)468].

Given their subject matter, the above initiatives were forwarded to the Committee on Constitutional Affairs, Rights, Freedoms and Guarantees, which analysed them and approved the reports annexed to this Opinion, which form an integral part thereof.

PART II – GROUNDS

- 1 - These initiatives are part of a 'legislative package' with a common basis:
 - the drafting of legislation on international protection for third-country nationals or stateless persons and a uniform status for refugees,
 - the setting up of a common procedure for international protection in the EU, and
 - the establishment of a Union Resettlement Framework.
- 2 - The main objective of the legislative initiatives under analysis is accordingly to supplement the European Agenda on Migration and the Common European Asylum System and to harmonise the concepts and procedures concerning the entry, resettlement and protection of third-country nationals or stateless persons.
- 3 - The present initiatives thus propose the approval of Regulations on these matters, amending Directive 2003/109/EC, repealing Directive 2013/32/EU and amending Regulation (EU) No 516/2014 of the European Parliament and the Council.

4 - The main changes introduced by the first initiative [COM (2016)466] aim to prevent individual Member States from granting more favourable treatment to third-country nationals or stateless persons, although they are free to grant a national humanitarian status to those who do not qualify under the Regulation. The initiative also establishes an obligation for applicants to substantiate the need for international protection and the obligation to assess this need.

5 - The second initiative [COM(2016)467] aims to establish a common procedure for international protection in the Union; its objective is to assure quick and effective processing of applications for international protection, by establishing a common procedure for granting and withdrawing international protection and replacing the procedures of the Member States and making them simpler.

6 - The third initiative [COM(2016)468] aims to establish a Union Resettlement Framework, facilitate the Union policy on resettlement, harmonise practices and, consequently, reduce the divergences between Member States in this regard. As such, it is necessary to set out a common approach for safe and lawful entry into the EU, that both protects migrants and allows for responsibilities to be shared.

This Framework provides for the annual resettlement of a certain number of third-country nationals or stateless persons to the territory of the Member States. It also provides conditions of eligibility or exclusion, standard procedures (ordinary and expedited procedures, and delegated powers to amend them) and decision-making procedures.

7 - In this context, we should mention that the EU has developed the European Agenda for Migration, which lays the foundation for the Commission to provide effective and comprehensive management of current migration flows.

The European Agenda on Migration develops the political guidelines of President Juncker into tailored initiatives aimed at managing migration better in all its aspects. The Agenda, adopted on 13 May 2015 put forward concrete actions to respond to the immediate crisis and save lives at sea, and proposed structural responses for the medium and long term.

8 - We would also note that the European Commission's priorities on this issue were set out in the Communication *'Towards a reform of the Common European Asylum System and enhancing legal avenues to Europe'*, which proposed:

- a sustainable and fair Dublin system for establishing the Member State responsible for assessing the asylum application,
- a reinforcement of the Eurodac system¹, and
- the establishment of an EU Agency for Asylum.

Consequently, we would point out that the initiatives at issue were presented to this end.

8 - The initiatives presented therefore seek to achieve the objective of building a solid,

coherent and integrated European asylum system based on harmonised rules, which are in line with the international protection standards under the Geneva Convention.

Finally, we would state that the changes proposed are in line with the Juncker Commission's priorities (point 8 - Migration).

In the light of the provisions contained in the Proposal, the following must be considered:

a) Legal basis

Articles 78 and 67(2) of the TFEU.

Article 78 of the Treaty on the Functioning of the European Union states that the EU must develop *a common policy on asylum, subsidiary protection and temporary protection with a view to offering appropriate status to any third-country national requiring international protection (...)*.

Article 67(2) of the TFEU also refers to the development of a *common policy on asylum, immigration and external border control, based on solidarity between Member States, which is fair towards third-country nationals¹*, while the Charter of Fundamental Rights of the European Union contains a separate article on the 'Right to Asylum' (Article 18).

b) Principle of subsidiarity

Given that the Common European Asylum System entails common standards across the EU for all asylum seekers and beneficiaries of international protection, these objectives cannot be dealt with by Member States individually.

Action at Union level is necessary to facilitate greater convergence in terms of decisions on matters relating to asylum in the EU.

We would also point out that, under the present initiatives, Member States are still free to grant other forms of protection under national legislation.

In accordance with the principle of proportionality, as set out in Article 5 of the Treaty on European Union, these initiatives do not go beyond what is necessary in order to achieve their objectives.

PART III - OPINION

In the light of the information set out above and the report of the relevant committee, the European Affairs Committee's opinion is as follows:

¹ The Eurodac system enables EU countries to identify asylum seekers and persons who have been intercepted when crossing an external border illegally. By comparing fingerprints, EU countries can check whether an asylum seeker or foreigner who is in the country illegally has already claimed asylum in another EU country or whether the asylum seeker entered the EU illegally.

Eurodac comprises a Central Unit that is managed by the European Commission, a computerised central fingerprint database, and electronic means of sending data from EU countries to the central database.

1. These initiatives do not breach the principle of subsidiarity, in so far as the objective pursued will be achieved more effectively by means of action at Union level.
2. The European Affairs Committee will continue to monitor the legislative process in relation to this initiative by exchanging information with the Government, and proposes that this information be sent after each meeting of the JHA Council of Ministers in accordance with Article 5 of Law No 43/2006 of 25 August 2006 as amended by Law No 21/2012 of 17 May 2012.

Palácio de São Bento, 25 October 2016

Rapporteur

[signed]

(Rubina Berardo)

Chair of the Committee

[signed]

(Regina Bastos)

PART IV - ANNEX

Reports by the Committee on Constitutional Affairs, Rights, Freedoms and Guarantees