



EUROPEAN COMMISSION

Brussels, 20.04.2015
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Dear President,

The Commission would like to thank the Camera Deputaților for its Opinion concerning the Communication from the Commission to the Council and the European Parliament on EU Return Policy {COM (2014) 199 final}.

The Commission appreciates the strong overall support given by the Camera Deputaților to the findings of the above-mentioned Communication. It takes note that the Camera Deputaților considers that the Return Directive had a beneficial effect on legislation and national practice in relation to return, that it boosted legal security for all players involved and that it contributed to a better management of irregular migration flows as part of a comprehensive EU approach to migration and mobility.

As regards the concrete suggestions contained in the Opinion, the Commission would like to make the following comments:

Concerning cooperation with third countries in the field of return, the Commission would like to underline that as rightly pointed out in the Opinion, in its dialogue and cooperation with third countries, the EU aims at protecting migrants' fundamental rights. Having acceptable human rights standards in place in a non-EU country is however not a precondition, but rather the long-term political objective of the EU's cooperation. This being said, any EU Member State is obliged to respect the principle of non-refoulement in its return practice.

With regard to information about the risks of irregular migration, the Commission would like to confirm that it shares the assessment that proactive advance information to potential irregular migrants on the risks of irregular migration, migrant smuggling and trafficking in human beings can play an important preventive role. Information is already provided via the EU's Immigration Portal (a web-based info site, available in English, French, Spanish, Portuguese and Arabic). Information campaigns in key countries of origin and transit in Africa are soon expected to be launched, including in Niger and Ethiopia.

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Concerning the need to differentiate between cooperating and non-cooperating returnees, the Commission agrees that it is important to distinguish between cooperating and non-cooperating returnees both as regards the imposition of sanctions as well as in relation to the eventual granting of humanitarian or other permits for legal stay. In its upcoming "Return Handbook" (announced in section III.2 of its Return Communication), the Commission will draw up concrete recommendations in this field. It will do so in close consultation with Member State experts and building upon the case-law of the European Court of Justice which has already expressly highlighted the need to differentiate between cooperating and non-cooperating returnees in its judgement in case C-329/11 (Achughbadian).

The Camera Deputaților expresses furthermore the view that positive discrimination in favour of irregular immigrants needs to be avoided. The Commission entirely shares the assessment that under the rule of law, laws and penalties, if they are broken, must be applied to anyone in a non-discriminatory manner. The Commission reminds however that – as expressly highlighted by the European Court of Justice in its judgment in case C-61/11 (El Dridi) – Member States must adjust their legislation in order to ensure compliance with European Union law and that criminal law rules which are liable to jeopardise the achievements of the objectives pursued by the Return Directive must not be applied.

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

Yours faithfully,

*Frans Timmermans
First Vice-President*

*Dimitris Avramopoulos
Member of the Commission*