



**Parliament of Romania
Chamber of Deputies
Committee on European Affairs**

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**Opinion
on the Communication from the Commission to the European Parliament, the Council, the
European Economic and Social Committee and the Committee of the Regions - EU Action
Plan against migrant smuggling (2015 - 2020) - COM(2015)285**

According to the provisions of Article 170 paragraph (1) of the Regulations of the Chamber of Deputies, republished, The Committee on European Affairs, together with the Committee for Human Rights, Cults and National Minorities Issues, the Committee for Legal Matters, Discipline, and Immunities, the Committee for Defence, Public Order, and National Security, the Committee for Foreign Policy were notified to examine on the merits the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - EU Action Plan against migrant smuggling (2015 - 2020) - COM(2015)285.

Having regard to:

- the draft opinion adopted by the Committee for Human Rights, Cults and National Minorities Issues (4c-5/501/21.09.2015),
- the draft opinion adopted by the Committee for Legal Matters, Discipline, and Immunities (4c-11/1088/22.09.2015),
- the draft opinion adopted by the Committee for Defence, Public Order and National Security (4c-12/209/22.09.2015),
- the draft opinion adopted by the Committee for Foreign Policy (4c-13/36/15.09.2015),
- the Ministry of Foreign Affairs Notice,
- the Ministry of Internal Affairs Notice,
- Notice of the European Affairs Department of the Presidential Administration,
- Notice of the Office in Romania of the International Organization for Migration,
- messages of the Representative of Romania to EU,
- the contributions to the debates, of the representatives of the aforementioned institutions,
- the contributions of own secretariat,

- the fact sheet and the contributions of the EU Division - Chamber of Deputies,
- opinion of the Chamber of Deputies of 30 June 2015 on the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: A European agenda on migration - COM(2015) 240,
- opinion of the Chamber of Deputies of 30 June 2015 on the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: The European Agenda on Security - COM(2015) 185

The Committee on European Affairs:

1. States that the action plan, announced in the "European Agenda on migration" [COM(2015)240], sets out the specific actions in order to implement the agenda, as well as the "European Agenda on Security" [COM(2015)185], documents considered by the Committee on European Affairs, which adopted opinions subsequently submitted for adoption by the Chamber of Deputies.
2. Notices that the action plan presents general short and medium term objectives, without bringing completely new ideas and without resorting to excessive particularization.
3. Shows that the success of the measures in the action plan is limited, however, on the one hand, by the "system" difficulties, resulting from the incomplete stage of political integration and by the disparities between the Member States, provided in the Union's Treaties, for the policies on the area of freedom, security and justice, and on the other hand, by the domestic policy difficulties in some Member States, where the strengthening of the anti-migration political movements has already occurred; even if the measures for prevention of internal political crises are not covered by the document examined, it should be considered that this type of crises may nullify all plans and measures adopted by the EU on migration.

In this respect, recalls that, in its resolution (2015/2833 (RSP)) of 10 September 2015 on migration and refugees in Europe, the European Parliament "[...] *Regrets that the leaders of some Member States and the far-right parties are using the current situation to fuel anti-migration sentiments while blaming the EU for the crisis, and that this is giving rise to growing numbers of violent actions against migrants; calls on the Commission and the Member States to take urgent steps against violent actions and hate speech targeting migrants [...]*".

4. Underlines that all analyses and planning exercises should distinguish the priority of saving lives and protecting children, in the more general context of human rights and, therefore, to integrate these absolute priorities.
5. Welcomes the proposal to open safer and legal paths to enter the EU, and to create alternative tools, so that the refugees can safely reach the EU without risking their life in unsafe boats and without paying huge amounts to the smugglers; for this, the visa system should be relaxed, opened as well to refugees from neighbouring countries, where consular services cannot be provided and oriented towards applicants who can be correctly identified.

6. Supports the increased efforts for full, operational information, so that the exposed persons can benefit from legal alternatives or to fully understand the danger they face and the low chances of being accepted in the Member States unless they meet the necessary legal conditions. It is essential that the message of counteraction provided by the communication, especially that which will be transmitted through the media, is prepared in a form that presents significance for its target audience.
7. Welcomes the clarification of the significance of smuggling of migrants towards the trafficking in persons, which, according to the Protocol to Prevent, Suppress and Punish Trafficking in Persons of 2000, supplementing the United Nations Convention against Transnational Organized Crime, involves victimisation of persons by "*threat or [...] use of force or other forms of coercion*" for the purpose of severe exploitation.

Recalls, however, that these concepts are not easy to separate, as the definition mentioned also includes references to "*forms of coercion, of [...] fraud, deception, abuse of power or position of vulnerability [...]*", which often occur in smuggling of migrants as well.

Notes that the difficulties in the legal characterization of the two concepts arise from the difficulty of determining the quality of an accomplice or a victim of the crime, according to the consent expressed prior to its perpetration.

8. Recalls that the European agenda on migration promotes assistance to immigrants who need international protection and the return of immigrants who have no right to remain in the EU.

Considers that the method to establish the true status of the migrants and thus to distinguish between refugees and economic migrants is the key to solving some de facto circumstances and therefore encourages the European Commission to develop a guide to present *in extenso* the best practices in the matter.

Welcomes the fact that the action plan provides firm measures to return to their countries of origin the migrants who are not entitled to stay in the EU.

Considers that the measure is fully justified, responding to the need of discouraging disproportionate risk taking, the need to concentrate the aid to the immigrants coming from war zones and the need to maintain some equilibrium in the society of the host State, but notes at the same time that as a result of the great number of people who will find themselves in this situation should be created operative mechanisms for monitoring and evaluation capacities that can provide real-time solutions, to avoid a sudden and excessive increase in the political, economic and social pressure.

9. Believes that the "*more for more*" principle should be transposed *mutatis mutandis* to the situation of the immigrants, depending on the level of cooperation with the host State authorities and with the representatives of EU agencies, as well as on the individual performance regarding the integration into the society of the host State.

Welcomes the proposal to amend Directive 2004/81 on the residence permit issued to third-country nationals who are victims of trafficking in persons, other forms of manifestation of the organized crime, or who have been the subject of facilitating the illegal immigration and who cooperate with the competent authorities.

The immigrants facing difficulties in adaptation or who are reluctant to cooperate with the authorities should be offered special mandatory social inclusion programs. Instead, immigrants who refuse to cooperate, have significant problems in terms of social reinsertion or exhibit antisocial tendencies should be entered in monitoring programs, with elements of the probation services. In case of committing serious crimes should be developed and implemented mechanisms of expelling to the State of origin or to third countries which can provide their personal security based on agreements.

10. Supports the view that the effective management of migration must address the root causes of the phenomenon, but points out the need to specify whether this requirement refers to actions in the category of raising the security level and the life quality of the population from the areas of origin, to identifying the concrete causes that favoured the exodus, or to other aspects.

The action plan should have proposed a mechanism for collecting and analyzing the information that explains why, in a relatively short period of time, the number of asylum applications has increased three times, and in the case of the nationals of Kosovo, 5-10 times.

11. Notes that, in establishing the priorities of the authorities of the Member States facing atypical situations related to complying with the rules of crossing the state border, as happens, for example, to Calais, is inappropriate to be invoked considerations other than the obligation to safeguard the life and safety of the migrants. The measures to ensure decent accommodation conditions would be welcome if the immigrants to whom they are dedicated did not continue to take desperate actions, of life-threatening nature.
12. Believes that it is crucial how the EU agencies will manage to coordinate their actions and to cooperate with the Member States, especially for carrying out the *task-force* type missions, of the joint investigation teams, respectively of the joint operations at regional or European level aiming to dismantle the organized crime groups specializing in smuggling of migrants.
13. Welcomes the proposal for "*systematic efforts to identify, capture and dispose of vessels and assets used or suspected of being used by smugglers or traffickers*" and the proposal of towing ashore or disposal into the sea of the boats used for smuggling migrants, after ensuring the safety of people, but shows reservations that such measures can be applied in reality, on the one hand, as a result of the opposition of the Russian Federation towards a resolution of the United Nations Security Council, and on the other hand, as an effect of the typology of EU action, which does not perform in the use of force.
14. Recognizes the value of the measure to confiscate and recover the assets derived from criminal activity and to prioritize, at the National Asset Recovery Offices and Camden Asset Recovery Inter-Agency Network (CARIN), tracing the money of criminal groups which smuggle migrants. Notes, however, that not all Member States have such instruments, although the European Commission has indicated since autumn 2008, in its Communication "Proceeds of organised crime : ensuring that "crime does not pay" [COM(2008)766] that every Member State should set up national asset recovery offices.

15. Welcomes the proposal to establish a contact group of the EU agencies on smuggling migrants and assumes that the Interpol and intelligence services of the member states and partners will be in close cooperation relations with this group.
16. Highlights the increasingly high capacity of the modern technology of satellite communications and investigation and recommends to attract at the highest possible extent these resources available to the Union in the fight against smuggling migrants, especially by identifying the natural or built elements that facilitate this phenomenon.
17. Welcomes the measures planned in supporting the economic operators to prevent migrant smuggling, which should target the businesses most affected by fraud, by establishing partnerships with the economic operators in the sectors most exposed to risks, such as the transports and in particular, the maritime transport.
18. Admits that the financial and technical assistance provided to third countries by the European Commission and the European External Action Service should be substantial, as well as the funds designed to strengthen the responses of the police and judicial authorities to smuggling of migrants, but recalls that the European Union budget is limited precisely by the methods of fundraising. Therefore, in the medium and long term, a revision of the Treaties could include changing the sources and the method of feeding the Union's budget, given that the financing requirements of large projects are ever-growing.

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The Committee on European Affairs, at the sitting of 6 October 2015, in the presence of 15 of the 22 members, decided unanimously to adopt this opinion to be forwarded to the Standing Bureau of the Chamber of Deputies, for completion of the parliamentary scrutiny procedure.

Proposes to inform the European Union institutions and the Romanian Government on its observations and recommendations, as a contribution to the formulation of effective policies in the field of reference.

Proposes, at the same time, to forward its observations / recommendations to the European Commission, in the informal political dialogue proposed by the European Commission in the Communication "Delivering results for Europe", COM (2006) 211.

Chairperson,

Secretary,

Ana BIRCHALL

Dorel Gheorghe CĂPRAR

Written by DM, FA