



## EUROPEAN COMMISSION

*Brussels, 25.08.2016  
C(2016) 5543 final*

*Mr Florin IORDACHE  
President of the Chamber of Deputies  
Palace of the Parliament  
Str. Izvor nr. 2-4, sector 5  
RO – 050563 BUCHAREST*

*Dear President,*

*The Commission would like to thank the Camera Deputaților for its Opinion on the Communication from the European Commission to the European Parliament and the Council "Towards a reform of the Common European Asylum System and Enhancing Legal Avenues to Europe" {COM(2016) 197 final}.*

*Together with the other measures based on the European Agenda on Migration, the Communication sets out steps to be taken towards a more humane, fair and efficient European asylum policy, as well as a better managed legal migration policy. Following the discussions and evaluations of the existing instruments, the Commission presented on 4 May 2016 a first package of proposals to create a fairer, more efficient and more sustainable system for allocating asylum applications among Member States. This legislative package encompasses proposals for the reform of the Dublin III Regulation<sup>1</sup>, for establishing a European Union Agency for Asylum<sup>2</sup> and for reinforcing the EU's fingerprinting database Eurodac<sup>3</sup>, in order to better manage the asylum system and to help tackle irregular migration. On 13 July 2016, the Commission presented in a second legislative package proposals for a Regulation establishing a common procedure for international protection in the Union<sup>4</sup>, for a Regulation on qualification standards for international protection<sup>5</sup>, for a recast of the Directive on the reception conditions for applicants for international protection<sup>6</sup> and for a Regulation establishing a Union Resettlement System<sup>7</sup> to ensure the reform of all parts of the EU asylum system and to increase harmonisation across Member States as much as possible.*

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<sup>1</sup> COM(2016) 270 final.

<sup>2</sup> COM(2016) 271 final.

<sup>3</sup> COM(2016) 272 final.

<sup>4</sup> COM(2016) 467 final.

<sup>5</sup> COM(2016) 466 final.

<sup>6</sup> COM(2016) 465 final.

<sup>7</sup> COM(2016) 468 final.

*The Commission is pleased that the Camera Deputaţilor welcomes measures such as strengthening the obligations for applicants, sanctions for irregular secondary movements, clarifying the refugee and subsidiary protection status, strengthening Eurodac, transforming the European Asylum Support Office into a fully-fledged European Union Agency for Asylum to reflect its enhanced role in the new system, improving the ability to attract skills and talents and ensuring effective integration.*

*The Commission is convinced that the Dublin system needs to be reformed to provide an effective framework for processing asylum applications within a single responsible Member State, but notes the critical view of the Camera Deputaţilor on a mandatory allocation mechanism. The large-scale, uncontrolled arrival of migrants and asylum seekers in 2015 has exposed weaknesses in the design and implementation of the Common European Asylum System, and of the 'Dublin' arrangements in particular. The Communication and the subsequent proposal for the reform of the Dublin Regulation address the structural shortcomings by proposing improvements in particular by establishing a sustainable and fair system for determining the Member State responsible for asylum seekers. The basic principles of the Dublin Regulation and the criteria for determining the Member State responsible will remain the same. The linkage between the allocation of responsibility in the field of asylum and the respect by Member States of their obligations in terms of protection of the external border will be maintained. Yet the proposal is aiming to streamline the Dublin procedures and to establish a new corrective allocation mechanism. This corrective allocation mechanism, which has taken into account some of the shortcomings identified in the implementation of the relocation scheme, will ensure a sustainable and fair sharing of responsibilities between Member States, so that no Member State is left with a disproportionate pressure on its asylum system, with respect to the principle of solidarity. That mechanism will be activated automatically in cases where Member States would have to deal with a disproportionate number of asylum applications in order to ensure greater fairness between Member States.*

*The Commission shares the view of the Camera Deputaţilor that additional efforts need to be made for ensuring the effective return of irregular migrants, including of asylum seekers whose application for international protection has been rejected. In the EU Action Plan on Return<sup>8</sup>, the Commission stressed that improving the effectiveness of the EU return system requires political will and prioritisation, full application of the rules, and adequate administrative systems and resources. In light of this, the Commission put forward several actions geared towards reducing legal, operational and practical obstacles to return, which are currently being implemented. Among these, it is worth mentioning the reinforcement of the role and responsibilities of Frontex in the area of return through the European Border and Coast Guard Regulation<sup>9</sup> and the extension of the scope of Eurodac to help tackling irregular migration.*

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<sup>8</sup> COM(2015) 453 final.

<sup>9</sup> Proposal for a Regulation of the European Parliament and of the Council on the European Border and Coast Guard and repealing Regulation (EC) No 2007/2004, Regulation (EC) No 863/2007 and Council Decision 2005/267/EC {COM(2015)671 final}.

*The Commission is aware that the misuse of asylum procedures with the aim of preventing or frustrating the return process is one of the hindrances to the repatriation of irregular migrants. The proposal for Regulation establishing a common procedure for international protection in the Union<sup>10</sup> addresses some of the gaps and inconsistencies that exist between the asylum and return procedures, to ensure that third country nationals who are finally found not to be entitled to protection can be returned swiftly. The Commission's proposal therefore establishes new rules, in particular on accelerated examination procedures, on the admissibility and assessment of subsequent applications, on the application of the concept of "safe third country", as well as on the limitation of the suspensory effects of appeals in cases of subsequent asylum applications or asylum applications introduced only for the purpose of frustrating the return. These proposed rules should contribute to a more successful return policy, fully compliant with the right to asylum.*

*In response to the critical observations raised by the Camera Deputaților regarding cooperation with third countries on readmission, the Commission reaffirms its strong commitment to establish a new, more efficient way to cooperate with the countries of origin and transit of irregular migrants using all policy tools, including substantial leverages outside the home affairs area, in tailor-made compacts with the countries concerned. The Communication on establishing a new Partnership Framework with third countries under the European Agenda on Migration<sup>11</sup> clearly affirms that delivering on return and readmission is one of the main objectives of a new comprehensive cooperation with third countries.*

*The Commission has taken due account of the views expressed by the Camera Deputaților also as regards legal channels for orderly and safe pathways to the Union for third country nationals in need of protection, encouraging legal immigration, and discouraging irregular migration. In this regard, the Commission confirms its view that smart management of migration requires not only a firm policy in addressing irregular flows and ensuring protection to those in need, but also a proactive policy of sustainable, transparent and accessible legal pathways. The Commission is looking forward to constructive negotiations, in this context in particular, on the proposals for establishing a Union Resettlement Framework and revising the Blue Card<sup>12</sup>.*

*The proposals referred to above are currently in the legislative process involving both the European Parliament and the Council in which the Romanian government is represented.*

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

*Yours faithfully,*

*Member of the Commission*

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<sup>10</sup> COM(2016) 467 final.

<sup>11</sup> COM(2016) 385 final.

<sup>12</sup> COM(2016)378 final.