



Parlamentul României Senat

Bucharest, 10 May 2022

Courtesy translation

OPINION of the SENATE of ROMANIA

on the Proposal for a Regulation of the European Parliament and of the Council addressing situations of instrumentalisation in the field of migration and asylum COM (2021) 890 final

The Romanian Senate examined the Proposal for a Regulation of the European Parliament and of the Council addressing situations of instrumentalisation in the field of migration and asylum – COM (2021) 890 final – according to the provisions of the Treaty of Lisbon Protocol (no. 2).

Taking into account the report of Committee for European Affairs, **the Plenary of the Senate**, during its session of April 26, 2022,

- (1) notes that the Proposal for a Regulation of the European Parliament and of the Council addressing situations of instrumentalisation in the field of migration and asylum – COM (2021) 890 final – respects the principles of subsidiarity and proportionality;
- (2) considers that
 - a. the possibility for Member States to request appropriate support for the situation they face, adapted to their real needs, will enable such situations to be managed effectively;
 - b. it is not possible to estimate a priori the possible budgetary impact, given the nature of this proposal related to a situation of instrumentalisation of migrants. Any costs arising from the implementation of this proposal will be covered by the budget of the existing EU funding instruments for the period 2021-2027 in the field of migration and asylum;
 - c. the inclusion of rules derogating from normative acts still under negotiation is not such as to provide a reasonable timeframe for the adoption of the proposed regulation and thus to provide real support to those States which will face such situations;
- (3) notes
 - a. and appreciates the prompt response of the European Commission, which presented the response package to the instrumentalisation of migration supported by state actors;
 - b. the need to ensure a rapid response to the situations caused by the new phenomenon of migrants' instrumentalisation and a structured approach to their management, which ensures a rapid application of specific procedures, and appreciates the flexibility offered in these exceptional cases;
- (4) notes that this proposal is based on the solutions applied in the context of support measures for Latvia, Lithuania and Poland, in order to provide MS with the necessary legal tools to deal with future instrumental situations should they arise. This would provide a stable and ready-to-use framework to deal with any such situation in the future

and would therefore make it unnecessary to use ad hoc measures under Article 78 (3) TFEU to address situations of instrumentalisation which falls under this proposal;

(5) recommends:

- a. to avoid duplication, given that there is already a proposal for a Regulation on crisis and force majeure situations in the field of migration and asylum which also lays down rules derogating from asylum and return procedures in response to a crisis situation in domain;
- b. clearer provisions on practical arrangements that could be used to restrict the freedom of movement of migrants under the asylum procedure in the context of a large influx of people, given that, according to the recitals of the proposal, Member States would should mainly use alternative measures to detention;
- c. clarifications regarding the application of the provisions of article 4, regarding return;
- d. clarifications for the wording used in Article 5, Para. 1, letter d) which is extremely ambiguous. The expression "any other measure deemed appropriate" may leave room for interpretation, in the sense that the Member States concerned may request in this respect measures to resettle instrumentalized migrants, and the whole process may thus become a factor of attraction.