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*Foreign and European Affairs*

24 March 2021

H.E. Ursula von der Leyen

President

European Commission

The Standing Foreign and European Affairs Committee, meeting on 2 March 2021, discussed the proposal for a Regulation of the European Parliament and of the Council introducing a screening of third country nationals at the external borders and amending Regulations (EC) No 767/2008, (EU) 2017/2226, (EU) 2018/1240 and (EU) 2019/817 – COM (2020) 612.

The Standing Foreign and European Affairs Committee welcomes the initiative taken by the European Commission to propose a new Pact on Migration and Asylum. Migration and mobility can be manageable under a comprehensive, rights-based, grounded in partnerships and cooperation because a credible migration policy can only be achieved if it also respects international conventions on human rights. The Committee notes that the 2015 migration crisis revealed several shortcomings in the framework used by the EU to manage migration and asylum. Some Member States face the challenge of external border management, coping with large-scale arrivals by land or sea and overpopulated reception centres. The need for a revision of such a framework was evident during recent crisis situations, whereby some Member States experienced a large influx of migrants. It is evident that the EU needs to manage the different Member States' migration policies and facilitate a new and durable European framework, providing a comprehensive approach, bringing together policy in the areas of migration, asylum, integration and border management.

The Committee, acting in its scrutiny function, recognises that no Member States should shoulder a disproportionate responsibility and that all Member States should contribute to solidarity on a constant basis. The effectiveness of the New Pact depends on progress on all fronts to create faster, seamless migration processes and stronger governance of migration and border policies, supported by modern IT systems and more effective agencies. By reducing unsafe and irregular routes and promoting sustainable and safe legal pathways for those in need of protection, the New Pact can reinforce the reality that most migrants come to the EU through legal channels to match the EU labour market needs.

The Foreign and European Affairs Committee, after taking into consideration the proposal on the screening of third country nationals at the external borders, notes that:

1. While pre-entry screening may be suitable for air and land borders, it cannot be applied effectively in the case of maritime borders. The majority of irregular migrants arriving in Malta are brought into the country following rescue at sea and are therefore, already within Malta's territory. The "legal fiction" does not work for frontline Member States. There are no practicable solutions to prevent entry in case of rescues at sea. International obligations dictate that Malta needs to rescue arrivals in distress in its territories. This new requirement will therefore result in an untenable situation whereby Malta would be obliged to either designate part of the Maltese islands as non-territory or carry out the screening on offshore facilities outside the country's territory.
2. The proposed time-limit of 5 days (which may be extended for an additional 5 days in case of disproportionate number of third country national arrivals) is not realistic. In Malta's case, most asylum applicants are undocumented, and their identity cannot be verified within the suggested deadline of 5 days. Procuring the necessary travel documentation from the relevant consular authorities is generally a lengthy and complex procedure which is often unsuccessful due to the lack of cooperation by third countries. Malta already carries out all the checks referred to as part of the pre-entry phase but not within a period of 5 days. This deadline will therefore further increase the burden of front-line Member States.
3. In view of the timelines provided, the requirement to identify victims of torture, psychosocial assessments and other vulnerabilities that may not be visible are not realistic.
4. Within the set timeline, Member States are also obliged to carry out the de-briefing, containing information on relevant threats such as migrant smuggling, that cannot be concluded in such a short timeline. Interpretation shortcomings should also be considered when drafting the timelines.
5. The 20-day deadline for the regulation to enter into force is unreasonable, especially when considering the necessary infrastructural changes and the monitoring mechanism that need to be set up. Instead, the Regulation should start to apply at least after two years from entry into force.

The Committee believes that this proposal will not help alleviate the burden of frontline Member States. Screening procedures will necessitate a lot of investment and infrastructural changes at the national level, thus creating an additional strain on Member States' resources.