



PARLIAMENT OF THE CZECH REPUBLIC

JAN HAMÁČEK

SPEAKER OF THE CHAMBER OF DEPUTIES

Prague, 5. October 2016

Dear Mr. President,

let me inform you about the opinion of the Proposal for a Regulation of the European Parliament and of the Council establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast), COM(2016) 270 final, Council reference 8715/16. The Committee has adopted a reasoned opinion that the draft directive does not comply with the principle of subsidiarity in the sense of the protocol no. 2.

The assessment period was set for 27nd October, 2016, that the reasoned opinion was therefore adopted on time.

Yours sincerely

A handwritten signature in blue ink, appearing to be 'Jan Hamáček', written in a cursive style.

Enclosure

Mr. Jean-Claude Juncker
President of the European Commission
1049 Brussels
Belgium

PARLIAMENT OF THE CZECH REPUBLIC
Chamber of Deputies
Committee for European Affairs

Resolution No. 308

55th session on 22nd September 2016

to the Proposal for a Regulation of the European Parliament and of the Council establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast) /COM(2016) 270 final, Council reference 8715/16/

to the Proposal for a Regulation of the European Parliament and of the Council on the European Union Agency for Asylum and repealing Regulation (EU) No 439/2010 /COM(2016) 271 final, Council reference 8742/16/

to the Proposal for a Regulation of the European Parliament and of the Council on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of [Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person] , for identifying an illegally staying third-country national or stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes (recast) /COM(2016) 272 final, Council reference 8765/16/

Conclusions of the Resolution:

The Committee for EU affairs:

The Committee on European Affairs

1. **fully agrees** with the Framework Position of the Government of the Czech Republic to the proposal COM (2016) 270 final of 1 June 2016;
2. in accordance with its longstanding position **approves** those initiatives included in the proposal which aim to make the overall functioning of the Dublin system more efficient in order to be operational also in case of increased influx of applicants for international protection; at the same time affirms also those initiatives that can help to prevent secondary movements and intentional abuse of Member States' asylum systems;
3. however **strongly rejects** the Commission's proposal to establish the so-called Corrective Allocation Mechanism as well as the financial solidarity contribution related to this mechanism, which considers to be inconsistent with the principle of subsidiarity pursuant to the Article 5, Paragraph 3 of the Treaty on European Union;
4. pursuant to the Article 6 of the Protocol (No 2) on the application of the principles of

subsidiarity and proportionality annexed to the Treaties, therefore, **adopts a reasoned opinion** on the proposal COM (2016) 270 final with the following reasoning:

- a. As in the case of its first try to establish a permanent crisis relocation mechanism by amending the Dublin regulation from last September (COM (2015) 450 final) the Commission also now has not explained sufficiently the need to establish such mechanism at the EU level, while just stating that a fair sharing of responsibilities between the Member States can only be achieved by measures adopted at the EU level. According to the Article 5 of the Protocol (No 2) on the application of the principles of subsidiarity and proportionality annexed to the Treaties every draft legislative act should contain a detailed statement making it possible to appraise compliance with the principles of subsidiarity and proportionality. Above-mentioned explanation provided by the Commission has not convinced the Committee at all about the need of adoption of the proposed measures; its opinion is underlined moreover by the fact that the proposed mechanism is conceived again as permanent and compulsory, despite that both already established EU temporary mechanisms for redistribution of asylum seekers do not work.
- b. Solving of emergency situations of sudden inflow of third countries' nationals to the particular Member States is already presumed by the Article 78, Paragraph 3 TFEU, which allows to adopt temporary measures in favor of the countries concerned in every single case; these measures must be always approved by the Council which decides by a qualified majority having consulted the European Parliament. The legal basis used by the Commission does not presume solving of emergency situations at all; on the contrary it intends to control a standard migratory flows with regards to the fact that for crisis situations there can be adopted certain emergency measures constituting an exception from the rules adopted on this legal basis. Incorporation of the crisis allocation mechanism within the framework of the Dublin rules therefore completely denies a sense of the Article 78, Paragraph 3 TFEU.
- c. Moreover, establishing of the proposed corrective allocation mechanism can be perceived as needless as there already exists a tool at the EU level dealing with similar situations called temporary protection and regulated by the Council Directive 2001/55/EC; this tool is supposed to be used right in case of a mass influx of displaced persons and according to the committee's opinion it is to be much more appropriate solution for extraordinary situations like this.
- d. The proposed mechanism also shows a number of practical problems (lack of asylum seekers' will to obey this mechanism and possibility of subsequent secondary movements related to this problem, unclear regulation of allocation system, lack of consideration of actual capacities of the Member States, etc.), which are obvious also in case of current implementation of the two above-mentioned temporary relocation mechanisms that has not led to the expected effect and results so far. The Commission, however, did not learn from this fact and despite it presents a concept, to which the practice has already shown that the EU is not able to achieve the respective goals better than the Member States themselves; the real benefit of this initiative is therefore very doubtful.
- e. Taking into account the above-mentioned arguments the Committee must insist on its previous opinion that the decision-making about who will be granted a long-term or permanent residence on its territory should remain a priori in exclusive competence of each Member State, which adapts to this fact its migration, asylum

and integration policy as well as its approach on ensuring internal security and public order.

5. with reference to the above-mentioned conclusions **calls on the Government** of the Czech Republic to insist on deletion of the provisions establishing the Corrective Allocation Mechanism from the text of the proposal while discussing the Dublin regulation reform at the EU level and eventually to block adoption of the respective proposal as a whole;

6. **approves** the Framework Position of the Government of the Czech Republic to the proposal COM (2016) 271 final of 23 May 2016;

7. **welcomes** Commission's initiative to strengthen the mandate of the European Asylum Support Office, whose potential should be utilized primarily to provide support and help to the Member States that are under the undue pressure of asylum seekers;

8. **disagrees**, however, with the strengthening of the competences of this agency to the extent that it could on its own initiative or on the basis of Commission's implementing decisions interfere to the competences of the Member States in the field of decision-making process on granting international protection;

9. in this context **emphasizes**, that the main responsibility for decision-making in asylum matters should be given exclusively to the Member States which specify, following their commitments arising for them from international and European law, by themselves the conditions for granting international protection on their territory;

10. at the same time **rejects** the proposed strengthening of the competencies given to the agency and to the Commission in the field of overall regular evaluation of the Member States' asylum systems and the related imposition of corrective measures and their subsequent enforcement;

11. **welcomes** the Proposal for a Regulation of the European Parliament and of the Council on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of [Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or stateless person], for identifying an illegally staying third-country national or stateless persons and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes (recast) (COM (2016) 272 final);

12. **considers** this proposal to be an efficient contribution to the fight against illegal migration in the EU as well as a useful tool to facilitate return and readmission of persons residing illegally on its territory;

13. **takes note of** the Framework Position of the Government of the Czech Republic to the proposal COM (2016) 272 final of 24 May 2016;

14. **calls on the Government of the Czech Republic** to inform the Committee on European Affairs as well as the Subcommittee for Migration and Asylum Policy about the progress and results of the negotiations on this legislative package in the EU institutions;

15. pursuant to the Rules of Procedure of the Chamber of Deputies **authorizes** the Chairman of the Committee on European Affairs to submit this resolution through the Speaker of the Chamber of Deputies to the Government, to the Speaker of the Senate, to the President of the European Parliament, to the presidency of the Council of the EU and to the President of the European Commission.