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Foreign and European Affairs

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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 addressing situations of crisis and force majeure in the field of migration and asylum – COM (2020) 613.

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 to address situations of crisis and force majeure in the field of migration and asylum, notes that:

1. Relocation should apply to all migrants, without the need to be in a situation of crisis and not based on recognition rates. Solidarity should be available at an early stage to avoid a situation of crisis;
2. Contrary to the Temporary Protection Directive (Council Directive 2001/55/EC), which is being repealed, Article 1 of the proposal infers that a crisis in an individual Member State is enough to trigger the mechanism. While this is a positive development, the Committee is concerned that the definition being proposed does not take into account territory when defining the 'scale' of the mass influx on a Member State. When describing the Member State's asylum, reception or return system, the term 'non-functional' should be replaced with 'severe difficulties or extreme pressures' to trigger the mechanism before reaching a critical point. The phrase 'and can have serious consequences for the functioning of the CEAS' should be removed to reinforce the underlying principle that an individual Member State can trigger the mechanism;
3. When solidarity is triggered in situations of crisis, every person will be eligible for relocation. While this is a positive development, the ability of triggering this mechanism should rest on Member States and not left to the discretion of the European Commission. Moreover, in a situation of crisis, the option of relocation should apply to every case instead of the possibility of return sponsorship;
4. The derogations in Article 4 are inappropriate because placing 75% or less of recognition rate in the asylum border procedure will create further delays and aggravate the crisis situation, increasing the burden faced by front-line Member States in the process;
5. In the absence of a definition of 'force majeure', the Commission should have the ability to issue a substantiated opinion on the necessity and proportionality of the application of the derogations due to claimed force majeure, especially in Article 9 which allows a Member State who is facing a situation of force majeure to notify that it is no longer in a position to comply with its obligations under the solidarity mechanism.

The Foreign and European Affairs Committee is of the opinion that this proposal falls short of expectations because it does not aid external border EU Member States who are already under pressure due to the influx of migration.