

SECTORAL POLICIES / MIGRATION

'Pact on Migration and Asylum', MEPs ready to negotiate with EU Council

Brussels, 28/03/2023 (Agence Europe) – MEPs in the European Parliament's Committee on Civil Liberties (LIBE) approved by a large majority, on Tuesday 28 March, the reports by MEPs Tomas Tobé (EPP, Swedish), Fabienne Keller (*Renew Europe*, French), Birgit Sippel (S&D, German) and Juan Fernando Lopez Aguilar (S&D, Spanish) aimed at reforming by mid-2024 the EU's asylum and migration management system (see *EUROPE B131350A6*).

These various reports create a new compulsory solidarity mechanism in situations of migratory pressure or arrivals of migrants following rescue operations at sea, with new obligations to control people arriving at the EU's external borders in return. The so-called 'Dublin criteria', which organise the responsibility of Member States for asylum, are also slightly relaxed. And a specific solidarity response to crisis situations, such as mass influxes of people, is also being developed, including compulsory relocation.

Specifically, MEPs approved reports covering the 'Pact on Migration and Asylum', regulations on: - the asylum and migration management (AMMR) by 47 votes to 17 with 1 abstention; - the asylum procedures (APR) by 38 votes to 21 with 6 abstentions; - the 'Screening' of migrants by 41 votes to 17 with 7 abstentions; - the management in situations of crisis ('Crisis') by 46 votes to 12 with 7 abstentions.

They had already agreed at the end of 2022 on their negotiating mandate for the fifth text of the 'Pact', the Eurodac regulation, which is now being negotiated with the EU Council (see *EUROPE B13134A12*).

With this vote, MEPs will be able to start negotiating with the EU Council on the 'Screening' regulation. However, they will have to wait a little while on the 'AMMR', 'APR' and 'Crisis' regulations, as the Member States have so far only a partial mandate on the 'APR' regulation.

Reacting to the LIBE committee vote, Parliament President Roberta Metsola called on EU lawmakers to "not waste any more time. We now have a strong mandate to start negotiations with the EU Council and to achieve results by next year", she commented via *Twitter*.

Review of the main provisions approved by MEPs.

Asylum and Migration Management Regulation (former so-called 'Dublin' Regulation). It is the driving force behind the 'Pact'. The report carried by Tomas Tobé organises the modalities of solidarity in times of migratory pressure. Each year, Member States will have to contribute to a 'solidarity reserve' that can be activated at the request of a State declaring itself under pressure.

After a few steps to assess the pressure situation, the Commission may define solidarity measures against this or other countries under pressure. The annual solidarity commitments of Member States should consist of 80% relocations (of asylum seekers or people who are already refugees, not economic migrants) and 20% material or personnel support measures.

A European relocation coordinator will be appointed to accompany the activation of the solidarity measures.

At least twice a year, a Solidarity Forum will be organised to anticipate needs in the event of pressure or arrivals by sea and to take stock of the solidarity commitments of contributing Member States.

After this stage, the Commission, under the guidance of the European coordinator, will establish each year a solidarity reserve on the basis of the estimated annual solidarity needs. This reserve will set the total number of relocations required and the total number of relocations required for applicants arriving by sea, including through debarkation as a result of search and rescue operations or activities, the report says.

In a crisis situation, within 2 weeks, the Commission will invite all contributing Member States to announce their planned solidarity contributions to meet the identified needs. And where the Commission considers that Member States' commitments do not match the needs identified, it will allocate the remaining needs on the basis of a reference key.

As regards the so-called 'Dublin criteria' to help identify the member state responsible for processing an asylum application, the first entry criterion will not apply to people disembarked after rescue operations, Tomas Tobé confirmed on Tuesday, with such people being almost automatically redistributed to other Member States.

In addition, the criteria of siblings, visas or diplomas from a country to help determine the responsible State are strengthened and broadened. The link with a specific Member State is also valued.

Screening. This is the 'security' counterpart of the 'solidarity' part of the Pact. All migrants arriving at the EU's external borders will have to undergo full health, security or identity checks within 5 days and then be directed, after this screening, to the correct procedure (asylum or return).

These checks "*are not really new*", said Birgit Sippel, as Member States already carry out these assessments. But the regulation reinforces the systematic nature of these checks.

Member States will also be able, if they so wish, not to apply the principle of the fiction of non-entry (not being considered as having already arrived on the territory of the Member State), unless they use the border procedure.

In addition, the 'Sippel' report strengthens the safeguards for screening of children. And it extends the scope of the fundamental rights monitoring mechanism to cover the border procedure and not just screening.

Member States will be able to involve NGOs in this mechanism and to call upon agents of the EU Fundamental Rights Agency, although this is not made mandatory.

Asylum procedures. If Member States so wish, they will be able to use a border procedure for people with a very low chance of being granted asylum (e.g. less than 20% recognition of asylum applications). However, this will not be compulsory, as the French MEP, Fabienne Keller, had wanted.

If this accelerated procedure is used, the asylum decision should be made in less than 12 weeks (including the appeal) and a return decision should in principle be made in

almost the same period. The return procedure must also be carried out within 12 weeks.

The EU Council is said to be in favour of a mandatory border procedure. But this will potentially raise the question of the infrastructure needed to carry out these procedures.

In any case, as proposed by the Commission, children and vulnerable persons will not be subject to this accelerated border procedure.

Crisis. According to the report by LIBE Committee Chair, Juan Lopez Fernando Aguilar, the relocation of migrants will be compulsory and will be the main possible response in situations of crisis and exceptional influx of people into the EU.

Clear criteria are set for determining a crisis situation, including serious disruption of the asylum system and undermining of infrastructure. The Commission will have one week to determine a solidarity response via a delegated act.

The (accelerated) 12-week procedure at the border will be applied to the persons concerned, but the rapporteur has set the possible extension of this procedure to four more weeks, compared to eight in the Commission's original proposal. After this period, the person may apply to enter the normal asylum procedure.

The 'Crisis' regulation also introduces the possibility of granting rapid protection to persons clearly in need of international protection, based on the *prima facie* concept and within one month.

Cautious support from the Greens/EFA Group. *"Throughout the negotiations on the texts voted on today, we lobbied and fought to improve the Commission's initial proposals. Today we are making the choice to support - or not to oppose - those proposals that contain progress compared to the status quo",* commented the French MEP, Damien Carême (Greens/EFA), in a statement.

In particular, he mentioned *"improving the rules of the current 'Dublin' Regulation by taking into account the connections of asylum seekers and refugees with any Member State, in order to relieve the so-called 'first entry' countries, which currently bear too great a burden in terms of reception and protection"*.

However, the Greens/EFA political group deplores the fact that the use of detention remains possible as well as certain derogations from the classic right of asylum.

Links to adopted texts: <https://eur.europa.eu/f/633> ; <https://eur.europa.eu/f/634> ; <https://eur.europa.eu/f/636> ; <https://eur.europa.eu/f/639> (*Original version in French by Solenn Paulic*)

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