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From: House of Representatives of the Republic of Cyprus
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Subject: Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing a crisis relocation mechanism and amending Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 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
[doc. ST 11843/15 ASIM 79 CODEC 1167 - COM (2015) 450 final]
- Opinion¹ on the application of the Principles of Subsidiarity and Proportionality

Delegations will find attached the above mentioned opinion of the House of Representatives of the Republic of Cyprus.

¹ Translation(s) of the opinion may be available on the Interparliamentary EU Information Exchange website (IPEX) at the following address: <http://www.ipex.eu/IPEXL-WEB/search.do>



ΚΥΠΡΙΑΚΗ ΔΗΜΟΚΡΑΤΙΑ
ΒΟΥΛΗ ΤΩΝ ΑΝΤΙΠΡΟΣΩΠΩΝ



25 Φεβρουαρίου 2016

A.E.,
κ. Mark Rutte,
Πρόεδρο του Συμβουλίου της Ευρωπαϊκής Ένωσης,

Κυρία Πρόεδρε,

--- Σας αποστέλλεται συνημμένα Γνώμη της Κοινοβουλευτικής Επιτροπής Εξωτερικών και Ευρωπαϊκών Υποθέσεων της Βουλής των Αντιπροσώπων της Κυπριακής Δημοκρατίας, στο πλαίσιο του πολιτικού διαλόγου μεταξύ της Ευρωπαϊκής Ένωσης και των εθνικών κοινοβουλίων σε σχέση με την Πρόταση Κανονισμού του Ευρωπαϊκού Κοινοβουλίου και του Συμβουλίου για τη θέσπιση μηχανισμού μετεγκατάστασης λόγω κρίσης και την τροποποίηση του κανονισμού (ΕΕ) αριθ. 604/2013 του Ευρωπαϊκού Κοινοβουλίου και του Συμβουλίου, της 26^{ης} Ιουνίου 2013, για τη θέσπιση κριτηρίων και μηχανισμών για τον προσδιορισμό του κράτους μέλους που είναι υπεύθυνο για την εξέταση αίτησης διεθνούς προστασίας που υποβάλλεται σε κράτος μέλος από υπήκοο τρίτης χώρας ή από απάτριδα [(2015)450].

Δράττομαι της ευκαιρίας να επαναβεβαιώσω τα βαθιά αισθήματα εκτίμησής μου.

Αβέρωφ Νεοφύτου
Πρόεδρος
Κοινοβουλευτικής Επιτροπής Εξωτερικών
και Ευρωπαϊκών Υποθέσεων

OPINION
of
The Parliamentary Committee on Foreign and European Affairs
of the
House of Representatives
of
The Republic of Cyprus

with regard to the Proposal for a Regulation of the European Parliament and of the Council establishing a crisis relocation mechanism and amending Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 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 [COM(2015)450].

The Parliamentary Committee on Foreign and European Affairs Committee (the Committee) has examined on the 27th of October 2015, the legislative proposal of the European Commission for a Regulation establishing a crisis relocation mechanism and amending Regulation (EU) No. 604/2013 (known as “the Dublin Regulation”) establishing the criteria and mechanisms for determining the Member State which is responsible for examining an international protection lodged in one of the Member States by a third country national or a stateless person. According to the proposal, the proposed said relocation mechanism aims, on the one hand, to ensure, in situation of crisis, a fair sharing of responsibilities between Member States for large numbers of applicants in clear need of international protection, and, on the other hand, the proper application of the Dublin system including the full protection of the rights of applicants for international protection. Following the examination of the above mentioned proposal, in the presence of representatives of the executive, the Committee has submitted a *majority* Opinion in the framework of the political dialogue on the subject matter. Please note that the Parliamentary Group AKEL Left – New Forces has submitted its position *separately*. In its majority Opinion the Committee expresses the following:

- It emphasizes that, due to the historically/unexpectedly increased massive migratory flows, there is an urgent need for practical solidarity and fair sharing of responsibility between Member States, especially the Mediterranean countries, which are affected the

most by the flow of large numbers of migrants due to developments taking place in the region at large.

- It also underlines the need for the adoption of appropriate measures and implementation of those policies at European level for the prevention of such migratory flows arising/occurring for economic and social reasons or because of various wars or conflicts as well as finding ways and implementing policies to address and combat the root causes of such phenomena. At the same time, the Committee notes that these measures and policies should be taken and made with commitment to the respect of human rights of migrants, refugees and asylum seekers in the light of the preservation of human dignity and should respond to social causes which lead to migration and should not contribute to the intensity of the suppression against migrants and refugees.
- It highlights that, although the further safeguarding of the external borders of the EU is essential, the acquis and effectiveness of the Schengen zone should not be affected/should be protected, and at the same time it emphasizes the need for the acceleration of procedures regarding the establishment and operation of the reception and registration centres ("hot spots") particularly in those countries which are affected the most by the current migratory flows.

Position of the Parliamentary Group AKEL Left - New Forces

The Parliamentary Group AKEL Left -New Forces approaches the Commission's proposal as a part of the comprehensive approach of the EU and its institutions towards the refugee crisis and migration. In this context:

- It highlights that a final solution to the refugee crisis and its accompanied maritime tragedies, could not/cannot exist if foreign intervention in North Africa and the Middle East, is not terminated, particularly, the civil war in Syria. The EU and the wider West should stop the funding and equipment of the jihadist opposition groups and should promote a peaceful political solution based on international law and with respect to the sovereignty and territorial integrity of Syria.
- It expresses its opposition to the approach and direction of the migration and refugee policy of the EU, particularly as regards to the notion of military and suppressive solutions (such as the EUNAVFORMed operation), the further safeguarding/ strengthening of external borders of the EU and the establishment of a border-coastguard force. It supports that in place of such a suppressive solution, mechanisms and multinational research and rescue operations should be established/ created, taking advantage of the valuable experience of organizations such as the Migrant Offshore Aid Station (MOAS).
- It is opposed to the externalization process as regards the control of the EU borders through cooperation with neighbouring authoritarian regimes. The EU should suspend its readmission agreements with countries which do not respect the fundamental principles of human rights. It requests that all Member States comply in practice with the international principle of non-refoulement and confirm in practice that collective expulsions are prohibited. It is opposed to the acceleration and the execution of the planned returns from "hot spots" based on a list of "safe countries" from which asylum applications will be examined rapidly and obviously will be rejected synoptically. It supports that this process/method/practice undermines the internationally guaranteed human right to asylum for citizens and residents of these third countries- including Turkey - and it affects especially vulnerable groups of society like women and LGBTI. It urges the European Commission to at least adopt the position of the European Parliament on the relevant matter/issue as it was expressed in the EP Resolution of the 9th September 2015.
- It repeats that the right to asylum is a fundamental human right which is legally recognised by international law and by international obligations legally binding on all Member States. It requests that the EU and Member States create safe and

legal channels for refugees, such as humanitarian channels, visas for humanitarian reasons and strengthening family reunification. Member States should allow the submission of asylum applications in their embassies and consular offices/consulates.

- It calls for the EU's generous financial assistance for the creation of decent conditions of temporary accommodation for asylum seekers based on the United Nations standards.
- It underlines that the recent refugee crisis and the situation in the Mediterranean highlighted the negative impact of Regulation (EU) No. 604/2013 of the European Parliament and of the Council of 26 June 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 the first country of entry into the EU (Official Journal of the European Union L180, 29.6.2013.p.31), as regards to the reference of the "first country of entry into the EU", which unfortunately has not yet led to the suspension of the relevant Regulation or at least to the deletion of the reference of the "first country of entry into the EU".
- It considers the emergency and provisional measures adopted, until today, for the relocation of refugees from Greece and Italy as extremely inadequate in relation to the situation faced by these countries. It condemns, as unacceptable, the attitude of some EU Member States refusing to participate in a refugee hosting programme and to accept mandatory quotas.
- It requests for the repeal of the Dublin Regulation, and at the same time it supports the establishment of a permanent accommodation and relocation mechanism with binding quotas for the distribution of asylum seekers between all Member States.
- It calls on/urges the Commission to base its proposal on the positions included in the EP Resolution of 9th of September 2015, regarding the proposal for a Council Decision establishing provisional measures in the area of international protection for the benefit of Italy and Greece [(COM(2015)286- C8-0156/2015-2015/0125(NLE)], especially in relation to issues such as the consent of the applicants for their relocation, their access to adequate information, taking into account the preferences and unique qualifications of the applicants, the respect to fundamental rights of applicants during the identification process as well as the special attention that should be given to vulnerable groups of refugees and in particular the unaccompanied minors.

- It underlines that the issue of the consent of the applicants or beneficiaries of international protection to relocate is a necessary condition in order to avoid secondary movements. At the same time, it constitutes/is an established principle of secondary legislation of the European Union, enshrined in Article 7 paragraph 2 of Regulation (EU) No. 516/2014 and, mutatis mutandis, in Article 5 of Regulation (EU) No. 439/2010 of the European Parliament and the Council for the establishment of a European Asylum Support Office and in Article 17 paragraph 2 of Regulation (EU) No. 604/2013. If a person does not give his/her consent he or she should not be relocated, instead this opportunity should be given to another person, given that the number of people for relocation is significantly higher than the vacant relocation places.
- It emphasizes that the applicants should receive information/should be provided with information from the Member States and the European Asylum Support Office in a language they can understand/comprehend, on the procedures, rights and the situation/conditions they will meet in the Member States of their relocation. At the same time, access to information should be/must be safeguarded also from other organizations such as the UN High Commissioner for Refugees and the International Organization for Migration. The provision of information contributes significantly to the effective management of expectations. Applicants should be informed on the relocation process and be notified of the relocation decision. The applicants should have an effective remedy against the relocation decision according to Regulation (EU) No. 604/2013 and Article 47 of the EU Charter of Fundamental Rights.
- Based on the experience from the pilot project for relocation from Malta (EUREMA), expectations, preferences, special needs and qualifications of the applicants should be taken into account to the greatest possible extent/degree. The applicants should have the right/opportunity to classify Member States based on their priority preference and to support their preferences using data such as their language skills, family ties beyond the given definition of 'family members' in Regulation (EU) No. 604/2013, social relations, cultural links, previous stay in member state, previous studies and work experience and special skills which could be relevant for the integration of the asylum seekers in the labour market of the relocation member-state.
- Subsequently, the preferences of the applicants should be notified to the respective Member States and in turn Member States should be given the opportunity to state their preferences for applicants among those applicants who had expressed preference for the Member State concerned. Member States should base/support/justify their preferences through aspects such as relational,

social and cultural links. It is highlighted, however, that the principle of non-discrimination enshrined in Article 10 of the Treaty on the Functioning of the European Union must be fully observed throughout the relocation process. Discrimination based on gender, age, ethnicity, disability and religion is a clear violation of the Treaty.

- It underlines that priority should be given to vulnerable applicants- and special attention to the unaccompanied minors- as provided in/in line with Articles 21 and 22 of Directive 2013/33/EU of the European Parliament and the Council. In this regard/respect, the primary concern should be the special needs of the applicants, including health. At the same time the best interests of the child must be of primary consideration while the basic principles which are enshrined/ established in the decision of the Court of the European Union, judgment of 6th of June 2013 in Case C-648/11 regarding the determination of the "responsible Member State" in the case of an unaccompanied minor) should never be at stake. For this, Member States should make an individual assessment of the vulnerability of applicants in the context of their special reception and procedural needs, therefore they cannot rely exclusively on the self-determination of the applicants for the effective safeguarding of their rights based on the European Union Law.
- It stresses that the identification process for asylum seekers should be based on full respect to human dignity and fundamental rights, without resorting to violence and detention measures.