Asylum and migration management

2020/0279(COD) - 23/09/2020 - Legislative proposal

PURPOSE: to create a common European framework for migration management, while promoting mutual trust among Member States.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: the New Pact on Migration and Asylum represents a fresh start on migration based on a comprehensive approach to migration management.

Since the refugee crisis of 2015-2016, the challenges have changed. Mixed flows of refugees and migrants have meant increased complexity and an intensified need for coordination and solidarity mechanisms. The EU and the Member States have significantly stepped up cooperation on migration and asylum policy. However, inconsistencies between national asylum and return systems, as well as shortcomings in implementation, have exposed inefficiencies and raised concerns about fairness. And at the same time, the proper functioning of migration and asylum policy inside the EU also needs reinforced cooperation on migration with partners outside the EU.

A comprehensive approach is therefore needed which acknowledges collective responsibilities, addresses the most fundamental concerns expressed in the negotiations since 2016 in particular in relation to solidarity and tackles the implementation gap. This approach will build on progress made since 2016 but will also introduce a common European framework and better governance of migration and asylum management, as well as a new solidarity mechanism.

CONTENT: the Commission considers that a comprehensive approach to migration management is required to build mutual trust between Member States, to ensure the consistency of the EU approach on asylum, migration management, external border protection and relations with relevant third countries, whilst recognising that the effectiveness of the overall approach depends on all components being jointly addressed and in an integrated manner.

The proposed Regulation endeavours to establish a common framework that seeks to recognise that the challenge of irregular arrivals of migrants in the Union should not have to be assumed by individual Member States alone, but by the Union as a whole.

It also aims at replacing the current Dublin Regulation and relaunching the reform of the Common European Asylum System (CEAS) through the establishment of a common framework that contributes to the comprehensive approach to migration management through integrated policy-making in the field of asylum and migration management, including both its internal and external components.

Main objectives

In order to effectively address the increasing phenomenon of mixed arrivals of persons in need of international protection and those who are not and in recognition that the challenge of irregular arrivals of migrants in the Union should not have to be assumed by individual Member States alone, but by the Union as a whole, this proposal aims to:

(1) establish a common framework that contributes to the comprehensive approach to asylum and migration management based on the principles of integrated policy-making and of solidarity and fair sharing of responsibility;

(2) ensure sharing of responsibility through a new solidarity mechanism by putting in place a system to deliver solidarity on a continued basis in normal times and assist Member States with effective measures (relocation or return sponsorship and other contributions aimed at strengthening the capacity of Member States in the field of asylum, reception and return and in the external dimension) to manage migration in practice where they are faced with migratory pressure. This approach also includes a specific process for solidarity to be applied to arrivals following search and rescue operations;

(3) enhance the system's capacity to determine efficiently and effectively a single Member State responsible for examining an application for international protection. In particular, it would limit the cessation of responsibility clauses as well as the possibilities for shift of responsibility between Member States due to the actions of the applicant, and significantly shorten the time limits for sending requests and receiving replies, so as to ensure that applicants will have a quicker determination of the Member State responsible and hence a quicker access to the procedures for granting international protection;

(4) discourage abuses and prevent unauthorised movements of the applicants within the EU, in particular by including clear obligations for applicants to apply in the Member State of first entry or legal stay and remain in the Member State determined as responsible.

More specifically, the proposal lays down the following measures as regards the following:

Improved solidarity mechanism

This proposal provides for a new solidarity mechanism that is flexible and responsive in design in order to be adjustable to the different situations presented by the different migratory challenges faced by the Member States, by setting solidarity measures from among which Member States can choose to contribute. This new approach to solidarity provides continuous and diverse support to Member States under pressure or risk of pressure and includes a specific process to address the specificities of disembarkations following search and rescue (SAR) operations. In addition, Member States shall be able to offer voluntary contributions at any time.

Member States shall be under the obligation to contribute through a share calculated on the basis of a distribution key based on 50% GDP and 50% population. The share of the benefitting Member State shall be included in the distribution key so as to ensure that all Member States are giving effect to the principle of fair sharing of responsibility.

Relocation procedure

The proposed Regulation sets out the procedures to be followed before and after relocation and the obligations of both the benefitting Member State and the Member State of relocation. The obligations of the benefitting Member State include provisions relating to the identification and registration of the persons concerned for the purpose of relocation and the obligation to ensure that the person concerned does not present a danger to national security of public order.

Return sponsorship procedure

A Member State that commits to provide return sponsorship has to engage and closely coordinate with the benefitting Member State in order to determine the specific support measures that are necessary for carrying out the return of individually identified illegally staying third-country nationals from the territory of the benefitting Member State. Based on the result of the coordination between the Member States concerned, the sponsoring Member State would take the necessary measures aimed at facilitating and successfully concluding return procedures, for instance by providing support for assisted voluntary return and reintegration. The sponsoring Member States would implement the supporting measures during a predetermined period of time, set at 8 months. This period would start running from the day in which the Commission adopts an implementing act on solidarity in situations of migratory pressure. When despite the joint efforts by the Member States concerned returns have not been successfully carried out, at the expiry of the 8-month period, the third-country nationals would be transferred onto the territory of the sponsoring Member State.

Guarantees for minors

The rights of unaccompanied minors have also been strengthened through better defining the implementation of the principle of the best interests of the child and by setting out a mechanism for making a best interests of the child-determination in all circumstances implying the transfer of a minor.

Financial support

The proposal provides for financial incentives for relocation. A financial contribution of EUR 10 000 will be given per relocated person (including following return sponsorship if return was not successful). The financial contribution will be EUR 12 000 when the relocated person is an unaccompanied minor. In addition, a financial contribution of EUR 500 will be given to cover the transfer costs of persons in connection with relocation and with the procedures set out in this Regulation.

Budgetary implications

The total financial resources necessary to support the implementation of this proposal amount to EUR 1 113.500 million foreseen for the period 2021-2027. This would cover the operational costs including the transfer costs in the form of lump sums for transfers under this proposed Regulation and for transfers in connection with relocation in the context of the solidarity provisions, relating to relocation of applicants for international protection, beneficiaries of international protection and illegally staying third-country nationals.