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Vice-President of the European Commission

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Vice-President of the European Commission

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Member of the European Commission

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Ares (2022) 4453002

Dear Honourable Member,

We would like to thank you for your letter of 16 June 2022 on behalf of the Committee on Civil Liberties, Justice and Home Affairs (LIBE).

Member States have an obligation under Union law to prevent and discourage unauthorised crossings of the EU external borders. Member States also need to manage their border in full respect of fundamental rights and in compliance with the Charter, including the right to asylum and the principle of non-refoulement.

Commissioner Johansson held a videoconference with the responsible Ministers in Greece on 30th of June 2022 to discuss external border management, migration and fundamental rights. During the videoconference, the Greek authorities outlined new proposals to strengthen and mainstream fundamental rights within the Greek asylum systems, which will be in place by 1 September 2022.

According to the new proposals, the Greek authorities will work further on a three tier set-up, relying on: a) internal control procedures tasked with the investigation and prosecution of criminal acts arising in the context of operations by the Hellenic Police or the Hellenic Coastguard, b) investigations by independent authorities such as the Greek Ombudsman and the National Transparency Authority, and c) the possibility of public prosecutors to investigate allegations, following a relevant complaint or press and NGO reports. The Commission will continue to work with the Greek authorities, including monitoring the implementation in practice.

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At the same time, it is important to recognise that unauthorised crossing of state borders is often facilitated by criminal networks of migrant smugglers, who do not hesitate to put the life of irregular migrants at risk for financial gain. The Commission is concerned about the growing number of substantiated reports of smuggling networks using the dangerous pattern of abandoning migrants on the islets of Evros River.

Improving migration management at the EU's borders is a key priority of the New Pact on Migration and Asylum, which proposes a new, fast, effective and protective system, including screening procedures concerning anyone who arrives to the EU by irregular means. The Commission proposal for a Screening Regulation under the Pact would require Member States to set up an independent monitoring mechanism to monitor respect for fundamental rights, including compliance with the principle of non-refoulement. The Commission supports the co-legislators in making progress in the inter-institutional negotiations and urges them to do so rapidly. In particular, with a general approach reached in the Council on the Screening Regulation, the Commission would urge the European Parliament to intensify its work on this proposal so that trilogue negotiations can begin.

Finally, the Commission guidance on rules of facilitating unauthorised entry, transit and residence¹ has recalled that EU law²'s objective is not to criminalise humanitarian assistance and has invited Member States to distinguish between activities carried out for the purpose of humanitarian assistance, and activities that aim to facilitate irregular entry or transit, in order to exclude the former actions from criminalisation. As part of the renewed EU action plan against migrant smuggling (2021-2025)³, the Commission intends to report on the implementation of the Facilitators Package in 2023, including on the 2020 guidance, and will look at whether the legal framework established in 2002 remains adequate to address the current challenges.

The Commission monitors all developments, and is committed to playing its full role in ensuring respect for the existing legal framework and for fundamental rights.

Yours faithfully,


Věra Jourová


Margaritis Schinas


Ilva Johansson

¹ C(2020)6470

² Council Directive 2002/90/EC and the Council Framework Decision

³ COM(2021) 591