

Mr Dimitris Avramopoulos  
Commissioner for Migration, Home Affairs and Citizenship  
Wetstraat 200  
1049 Brussel  
BELGIE

The Hague, 6 March 2018

Dear Commissioner Avramopoulos,

The Netherlands has been a keen supporter of the European Commission's efforts to find a common and comprehensive response to the refugee and migration crisis and its aftermath. The European Agenda on Migration and the numerous ensuing proposals show the Commission is ambitious and actively pushing for decisive and joint action to manage the crisis. I am confident that you and your DG will continue tabling and implementing effective solutions for current and future migration challenges and I will certainly support you in your endeavors both within the European Union, at its borders and beyond.

Meanwhile, the Netherlands feels it is urgent to further consolidate the European Agenda on Migration in order to create a truly crisis-resilient framework of legislation and policies, before the Commission's mandate expires. Merely focusing on the work needed at the EU's external borders – as advocated by some Member States and certain representatives of the Institutions – is not enough and should not divert our attention from the lack of agreement and various levels of implementation within the EU.

Taking into account the possibility of another surge in migrant numbers, I believe our main priority should be the reform of the Common Asylum System in general and of its cornerstone, the Dublin Regulation, in particular. The Netherlands strongly supports the Commission's initiative for a new Dublin regulation. The current regulation has serious shortcomings both in design and implementation. Due to these shortcomings, large-scale secondary movements continue up to this day, causing several Member States to reintroduce internal border controls. These controls put a strain on the Schengen Agreement.

The Netherlands has not introduced such controls, even though more than 95% of irregular migrants and asylum seekers arrive from other Schengen States. Only one third has been registered previously. This means about two thirds still manage to enter and travel through other Member States undetected and unregistered, despite all measures taken to improve registration. The vast majority of these people cannot be returned, not even the ones who did register previously. As a result, the Netherlands ends up granting protection to large numbers of asylum seekers who consciously refuse to apply for protection in the Member State of first arrival. Giving asylum seekers this *de facto* choice of which Member State they want to settle in, is in itself a pull factor.

At the same time, the Netherlands acknowledges that, especially in situations of mass influx along specific migratory routes, the current system puts disproportionate pressure on a limited number of Member States. Such situation would stretch the capacities of any Member State. This is why the Netherlands has provided these Member States

with financial and technical support as well as staff, from the onset of the migration crisis. The Netherlands has also participated in the temporary crisis relocation schemes taking over responsibility for asylum applicants from Italy and Greece.

The Netherlands is bent on reaching agreement during the Bulgarian Presidency for durable solutions to these and other flaws of the Common Asylum System. We should establish a mechanism that assigns clear and stable responsibilities while delivering solidarity effectively and efficiently if and when needed. The result should be a Dublin system that is simpler, quicker and more crisis-resistant, as well as fair, by means of a crisis management mechanism that can be triggered quickly and efficiently, compensating Member States under strain. Under the same mechanism, free riding should have a price: Member States refusing to demonstrate solidarity, in violation of their EU obligations, should be penalized through cuts in EU subsidies.

Last but not least: implementation is key. Disregard of EU asylum rules and obligations already existed before the migration crisis. The comparison with the management of the Eurozone is often made. Its flawed design did not come to the fore because of imperfect implementation and lack of oversight. I would encourage you to guard the implementation of the migration acquis assertively, also considering the importance of maintaining public support for granting asylum/protection to those who are genuinely in need of it. Let us demonstrate that certainly in this regard Europe is not the problem but the solution.

I am sure you are aware of the difficulty in transferring applicants to Member States with systemic flaws in critical aspects of their asylum procedures or reception conditions. Suspension of Dublin transfers to Greece since 2011 has proved a particularly critical weakness in the system. The Netherlands believes that, in order not to reward bad behavior, it is necessary to address this structural obstacle to effective implementation in the current discussions on Dublin reform. The same applies to other forms of non-cooperation in the case of Dublin transfers. The conciliation procedure with Hungary that the Netherlands recently requested through the Commission was all too easily avoided by mentioned Member State.

I would also like to inform you that we have proposed a new criterion to be added to the list of Dublin criteria for establishing responsibility. In case an asylum seeker is stopped at the border, he should be denied entry and handed over to the authorities of the neighboring state, either through a Dublin claim if he is registered in EURODAC, or by direct notification if he has not been registered by them. If the purpose is to provide international protection, then indeed this protection should be requested in the country where it can be provided.

I would be grateful to you and the European Commission for giving proper attention to these considerations.

Yours sincerely,

Minister for Migration

Mark Harbers