



COMMENTS BY EURODEFENSE-ESPAÑA ON THE PROPOSAL FOR A NEW REGULATION INTRODUCING A NEW SCREENING SYSTEM OF THIRD COUNTRY NATIONALS ARRIVING AT THE EU'S EXTERNAL BORDERS WITHOUT FULFILLING ENTRY CONDITIONS

The European Commission has opened the possibility for interested parties to provide comments and feedback regarding the proposed Regulation of the European Parliament and the Council introducing a screening of third country nationals at the EU's external borders (COM (2020) 612 final 2020/0278). EURODEFENSE-ESPAÑA would like to avail itself of this possibility to make the following comments:

1.- According to the document, the proposal is one of the legislative building blocks of the New Pact on Migration and Asylum as presented by the Commission on 23 September 2020. EURODEFENSE-ESPAÑA put forward in August 2020, as feedback, a paper with its comments regarding the New Pact. In our paper we considered appropriate that the EU provide a comprehensive response to the issue of migration, as it is a matter of common interest and responsibility to the Union and its member states. In this respect, we consider appropriate the creation, as proposed, of a uniform -common- procedure for the screening of third country nationals who present themselves at EU external borders without fulfilling entry conditions, whether they arrive by land, sea, or air or after disembarkation following search and rescue operations.

2.- We concur with the proposal that the screening procedure include uniform rules for identification, health, and security checks, with the possibility to consult EU's and international databases.

3.- We consider, however, that this procedure may be difficult to apply as it is foreseen in the draft Regulation in cases of massive arrival of migrants, as it has recently occurred in the Canary Islands and in other front-line areas in various circumstances. Although migration is an issue of common responsibility for the Union, member states of first entry, due to their geographical location, must bear a disproportionate part of the burden from the organizational, social economic and security points of view.

4.- The period foreseen in the draft regulation for the screening (maximum 5 days at the external border, 2 days if the person concerned has already been kept at the border for 72 hours¹, 3 days if the migrant has been apprehended within the member state's territory, and 10 days in exceptional situations) may not be sufficient if massive arrivals take place. The draft Regulation states that, during the screening at external borders, third country nationals should not be authorized to enter the territory of a member state. It also indicates that "the member states

¹ As referred to in Article 14(3) of Regulation (EU) No 603/2013 [Eurodac Regulation], in relation to unauthorized crossing of the external border. In such a case, the screening should not exceed 2 days. In case of the screening of persons apprehended within the territory the screening should not exceed 3 days.



should apply measures pursuant to national law to prevent the persons concerned from entering their territory during the screening”²². However, this is not always feasible as proven in the Canary Island’s crisis. During the recent migratory crisis, many migrants were lodged in hotels at a high economic cost to the Spanish Government because the facilities available were overwhelmed.

It also states that, beyond those deadlines, screening with regard to the persons concerned should end immediately and, also immediately, start the procedure that leads to a decision that can be judicially reviewed. Again, this may prove difficult when massive arrivals occur.

5.- The draft Regulation states that security checks must be carried out to the extent possible based on biometric data, to minimize the risk of false identification. But, quite often, many migrants arrive undocumented. What other security checks can be made in these cases? Are the strict timelines for screening as foreseen in the draft Regulation applicable (even more so if large numbers of persons must be screened)? Does the Union have the appropriate agreements with third countries to facilitate these checks?

6.- The draft Regulation establishes the requirements to be put in place for the screening (appropriate infrastructures, training of border guards for the screening, adequate medical staff and equipment, establishment of an independent monitoring mechanism for fundamental rights, etc). These requirements will imply significant obligations -in terms of financial resources and personnel- for the border state. Moreover, we must bear in mind that we are suffering a pandemic, which is already extremely demanding on medical personnel and hospital facilities.

The draft Regulation admits that “in this context, the first two years may require bigger investments, in particular in the front-line states”. And that “in the long term, member states will need to develop and maintain screening centers, provide the necessary and adequately trained resources and maintain the (independent) monitoring mechanism”. This is correct, but it will be rather costly. The present economic and budgetary conditions in many member states are quite difficult. The draft also requires the presentation by member states of reports on a regular basis (at least once a year) regarding the establishment and functioning of the screening mechanism. This is an added bureaucratic burden.

7.- For all these reasons EURODEFENSE-ESPAÑA considers that the financial resources foreseen in the draft Regulation (417,62 million € for the period 2021-2027) will not be sufficient for the establishment of the recommended screening mechanisms throughout the Union, most significantly for the requirements that will have to be fulfilled by the front-line member states. Moreover, the criteria for distribution of these funds are not mentioned. We believe that these budgetary resources should be increased and that the Union and other member states should be

²²The draft Regulation indicates that “in individual cases, where required, this may include detention, subject to national law on this matter. But this provision does not contemplate the situations when large numbers of migrants arrive.



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ready to help in terms of personnel and equipment those member states that would most need it, as migration is an issue of common responsibility. Otherwise, the objective of establishing a uniform screening system may not be achievable in the timeline foreseen.

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Eurodefense España