

To: Ms Ylva Johansson
Commissioner for Home Affairs

Brussels, 13 February 2024

Subject: Children's rights in the implementation of the new EU asylum legislation

Dear Commissioner,

This week, the European Parliament's LIBE Committee votes on the ten files constituting the reform of the Common European Asylum System.

For the Renew Europe team in the LIBE Committee, a common EU approach to asylum has always been a top priority. We have been the driving force behind the Roadmap between the Parliament and the Council, which allowed us to arrive at this moment of adoption.

This is a complex package of legislative texts with many crosscutting elements. From the outset, one prime concern has been the situation of children. We acknowledge the safeguards included in the various legislative texts. However, we remain highly vigilant about the way in which children will be treated in practice, and how their rights will be respected at the external borders.

In that light, we have specific questions and requests concerning the implementation phase:

- The implementation of the Pact will be the litmus test for whether the system is effective and humane. To this end, across various legislative texts, the co-legislators have included specific obligations for Member States to have sufficient capacity in place. Could you share with us how the Commission will specifically and pro-actively prioritise the respect for children's rights in the implementation and enforcement following the adoption of the legislation by the co-legislators? Will the Commission prioritise this element in its Implementation plan and in its European long-term strategy, as well as in its assessment of the national strategies to be submitted by the Member States?
- The designation of a (provisional) representative will become mandatory from the moment of making an application by an unaccompanied minor, and one representative cannot be designated for more than 30 unaccompanied minors. This will expectedly require a substantial

increase in the number of available representatives in several Member States. Can the Commission share its analysis of how many additional representatives each Member States would have to train and employ over the coming years, in order to comply with these new rules? In addition, how will the Commission monitor and ensure that the required training and experience for those representatives is guaranteed across the Member States?

- At several points across the legislative texts, the principle of the best interests of the child is reiterated. A prime example of this is the best interests assessment that needs to precede any detention of a minor. In order for this safeguard to be meaningful in practice and for it not to become a tick-box exercise, implementation needs to include a massive investment in training and resources for staff on the ground to be able to carry out this assessment diligently. Can the Commission share its analysis of what the magnitude of this investment would amount to concretely, in terms of (human) resources per Member State under various scenarios of arrivals? Moreover, how will the Commission ensure that there are high and uniform standards across the Member States for this best interests assessment?
- Regarding the de-prioritisation of accompanied minors in the border procedures, as foreseen under the inter-institutional political agreement, how would the Commission help operationalise this across the Member States? Moreover, as concerns the EUAA monitoring of Member States' compliance with guarantees from the Reception Conditions Directive for minors in the border procedure, what specific commitment can the Commission give us regarding prompt and complete enforcement action to be taken? Beyond a recommendation, will the Commission commit to launching an infringement procedure in those cases where the EUAA monitoring finds systemic deficiencies in the respect for children's rights?
- The rules foresee that the Member States need to do all in their capacity to ensure that alternatives to detention are in place, to avoid detention of minors. Can the Commission share its assessment of which Member States currently have sufficient capacity of such alternatives to detention in place, and which Member States need to create additional capacity, and how much per Member State?
- As regards the fundamental rights monitoring foreseen in relation to the screening and asylum procedures, will the Commission commit to making the protection of children's rights a specific pillar therein and prioritise enhanced monitoring thereof?

The replies to these questions are crucial to us, as implementation will actually determine to what extent children are treated in line with our moral and legal obligations. Judging from the past years, implementation has been one of the main weakness of the Common European Asylum System, also due to a lack of enforcement action by the Commission. Hence, we need concrete commitments from the Commission so that we can work towards re-establishing trust and the respect for all rights and obligations contained in the EU asylum acquis.

Children should be the priority in any human-centred implementation and enforcement strategy for the coming years. We therefore kindly request specific answers to each and every of our questions above before the plenary vote on the legislative texts.

With kind regards,

Sophie in 't Veld MEP, Rapporteur on the Reception Conditions Directive (RCD)

Fabienne Keller MEP, Rapporteur on the Asylum Procedure Regulation (APR)

On behalf of the Renew Europe team in the LIBE Committee