



Romanian Parliament
Senate

Bucharest, 24th October 2016

OPINION

of the ROMANIAN SENATE

**regarding the Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast)
COM (2016) 270 final**

The Romanian Senate examined the Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast) - COM (2016) 270 final – according to the provisions of the Treaty of Lisbon (Protocol no. 2).

Taking into account the report of October 21, 2016 of our permanent Committee on European Affairs, **the Plenum of the Senate**, during its session of October 24, 2016, decided as follows:

I. The following are noted:

1. Proposal for a Regulation contains elements which can be considered as positive;
2. Introduction of a mechanism to manage situations of disproportionate pressure on the asylum systems of Member States, a system for sharing surplus asylum seekers (corrective mechanism for distribution of applications) that will be automatically applied to situations when a country faces a disproportionate number of asylum applications, according to GDP (50%) and population (50%). If a country receives a disproportionate number of requests that exceeds the reference value (150% of the reference value), all new applications filed in that country (regardless of the nationality of the applicant) will be transferred, after verifying admissibility throughout EU, until the number of applications will drop below this level again.
3. Keeping the basic principle that asylum seekers should apply in the first country they enter, unless they have family in another country.
4. Shorter periods for determining the arrangements, transfer and access to the asylum procedure.

II. The following requires clarification:

1. An explanation of the calculation of so-called solidarity contributions that would be imposed on the Member State should the Member State not accept an applicant for international protection.

III. The following are recommended:

1. Any proposal for redistribution of applicants for international protection between Member States must take into account the nature and capacity of Member States, including the fact that corrective sharing mechanism ignores the factual circumstances of each Member State and infrastructure at its disposal;
2. The division of responsibilities between Member States on migration should be fair, and not emerging from financial penalties of some Member States that might face difficulties in turn.

IV. The following require attention:

1. This proposal simplifies and reduces to a minimum the key calculation, but avoids any corrective element that, in Romania, would mainly consist of reception and integration capacity. Correction mechanism will be reviewed after 18 months from the entry into force of the Regulation, then annually, to ensure that allows a fair sharing of responsibility between Member States.
2. Solidarity should not be invoked for the development of particular situations, and voluntary nature is the only guarantee of successfully managing irregular immigration and secondary movements.

V. Reluctance is expressed, in violation of the principle of proportionality:

1. Whether a Member State does not take part in temporary redistribution of asylum applications. In this case, the concerned Member State will have to pay a solidarity contribution worth EUR 250,000 ("financial solidarity") for each applicant.
2. Introduction of a permanent mandatory distribution key, instead of adopting interim measures in emergency situations, beyond the extent necessary to achieve its objective and, therefore, infringes the principle of proportionality.

p. President of the Senate



Ioan CHELARU