

Legislation on emergency relocation of asylum-seekers in the EU

SUMMARY

Europe is confronted with the most serious refugee crisis since World War II. Wars, conflicts and persecution worldwide have forced more than 59 million people to flee their homes and seek safety elsewhere, according to the UN Refugee Agency. The unprecedented migratory flows to Europe have put enormous pressure on the asylum systems of the frontline Member States.

In response, the Commission has proposed, the Parliament has supported, and the Council has adopted a set of emergency measures for relocating 160 000 asylum-seekers from the frontline Member States to other Member States.

To this end, the Council decided on 14 September 2015 to relocate 40 000 asylum-seekers from Italy and Greece to other Member States.

In addition, the Council agreed on 22 September 2015 a further temporary relocation scheme for an additional 120 000 asylum-seekers from Greece and Italy.

Furthermore, the Commission proposed on 9 September 2015 to create a permanent relocation mechanism for all Member States, as well as a number of other concrete measures to better manage the exceptional migratory flows to Europe.



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Glossary

Relocation: the transfer of persons in need of international protection from one Member State to another Member State.

Resettlement: the transfer of persons in need of international protection from outside the EU to an EU Member State.

International protection: a refugee status or a subsidiary protection status as defined in Article 2, points (e) and (g) of the Qualification Directive ([Directive 2011/95/EU](#)).

Asylum-seeker: a person who has made an application for international protection in respect of which a final decision has not yet been taken.

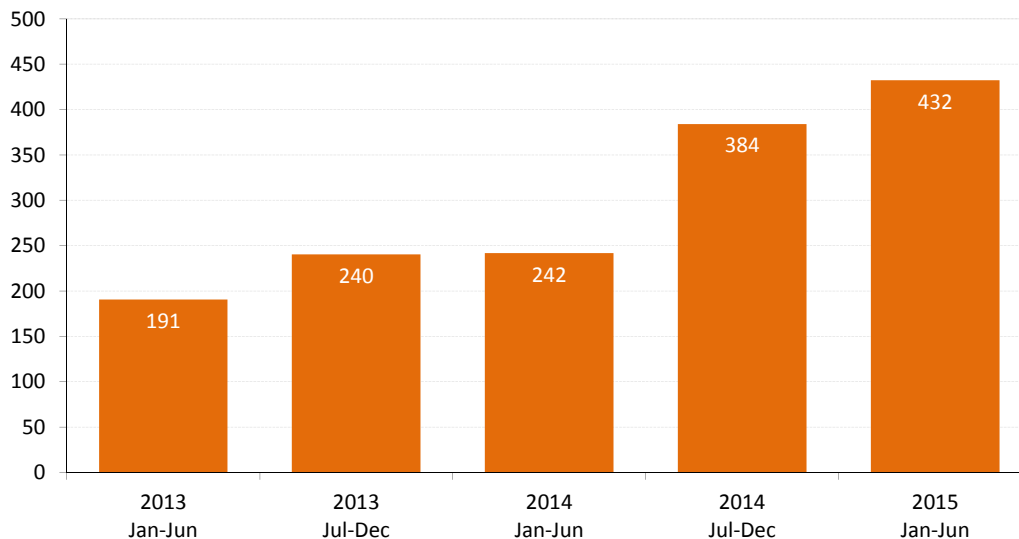
Refugee: a person who has been granted refugee status.

Background

Europe is facing exceptional and unprecedented migratory pressure. More than [548 000](#)¹ migrants have arrived irregularly by sea in Greece (416 245) and Italy (132 000), contributing to more than [660 000](#)² persons who have applied for asylum in the EU so far this year.

Germany [estimates](#) that up to 800 000 people could request asylum in the country by the end of the year. According to the Organisation for Economic Co-operation and Development ([OECD](#)), Europe will probably record more than 1 million asylum applications in 2015. This is a significant increase over the preceding two years – themselves record-breaking – of 2013 (431 090) and 2014 (626 960).

Figure 1 – Asylum applications in the EU-28, in thousands



Data source: Eurostat.

These exceptional migratory flows have put enormous pressure on the asylum systems of the frontline Member States.

In this context, the Parliament called, in its [resolution](#) of 29 April 2015, for the possibility of triggering Article 78(3) of the Treaty on the Functioning of the European Union ([TFEU](#)) to be seriously considered.

On 13 May 2015, the Commission presented its [European Agenda on Migration](#), in which it undertook to propose activating the emergency response system under

Article 78(3) TFEU, and committed to tabling a legislative proposal providing for a mandatory and automatically triggered relocation system.

On 27 May 2015, the Commission presented the [first implementation measures](#) of the European Agenda on Migration, including triggering the emergency response mechanism under Article 78(3) TFEU which had never previously been activated.

In its [proposal](#) of 27 May 2015, the Commission proposed to relocate 40 000 asylum-seekers from Italy (24 000) and Greece (16 000) to other Member States, over 24 months, based on a mandatory distribution key.

Article 78(3) TFEU

'In the event of one or more Member States being confronted by an emergency situation characterised by a sudden inflow of nationals of third countries, the Council, on a proposal from the Commission, may adopt provisional measures for the benefit of the Member State(s) concerned. It shall act after consulting the European Parliament.'

On 9 September 2015, the Commission presented its [second package of proposals](#) under the European Agenda on Migration, including a temporary relocation scheme for a further 120 000 asylum-seekers, and a permanent relocation mechanism for all Member States.

In its [proposal](#) of 9 September 2015, the Commission proposed to relocate another 120 000 asylum-seekers from Italy (15 600), Greece (50 400) and Hungary (54 000) to other Member States, over two years, on the basis of a compulsory distribution key.

Parliament's response

The Parliament has been a strong supporter of the mandatory emergency relocation measures proposed by the Commission.

In July, the Parliament's Committee on Civil Liberties, Justice and Home Affairs (LIBE) [voted](#) in favour of the Commission's first relocation proposal for a binding emergency measure for the relocation of 40 000 asylum-seekers.

However, the LIBE Committee [adopted](#) a number of amendments to the Commission's proposal, aimed at, inter alia, providing asylum-seekers with information about the Member States involved in the emergency relocation, taking account of preferences and specific qualifications of asylum-seekers to the extent possible, and requiring the consent of asylum-seekers to their relocation.

On the basis of the LIBE Committee report, Parliament adopted its [position](#) on 9 September 2015, supporting the Commission's proposal.

Furthermore, the Parliament decided, in a [resolution](#) of 10 September 2015, to follow a fast-track procedure to deal with the new emergency relocation scheme proposed by the Commission the previous day, as well as to advance in parallel all other measures proposed by the Commission, so as to ensure that Member States do not delay the permanent relocation scheme.

Acting rapidly to respond to the unprecedented migratory flows to Europe, the Parliament, in plenary on 17 September 2015, [voted](#) in favour of the Commission's proposal for the emergency relocation of a further 120 000 asylum-seekers from Italy, Greece and Hungary. To this end, the Parliament adopted, under an urgent procedure, a [legislative resolution](#) approving the Commission's proposal without amendments. The

Parliament's approval in such a short time aimed to send a strong signal to Member States that there is no time to waste and that urgent action is needed.

Council actions

On 14 September 2015, the Council [adopted](#), by unanimous vote, the decision establishing provisional measures in the area of international protection for the benefit of Italy and Greece ([Decision \(EU\) 2015/1523](#)), following the Commission's May proposal. Under this Decision, 40 000 asylum-seekers will be relocated from Italy (24 000) and Greece (16 000) to other Member States, over 24 months, based on a voluntary distribution scheme agreed by the Council in its [resolution](#) of 20 July 2015.

On 22 September 2015, the Council [adopted](#) a second decision, further to the Commission's 9 September proposal, establishing provisional measures in the area of international protection for the benefit of Italy and Greece ([Decision \(EU\) 2015/1601](#)).

Because Hungary did not consider itself to be a 'frontline' Member State and it did not want to benefit from the emergency relocation scheme, significant changes were made to the Commission's proposal. The decision was adopted by a qualified majority vote, with Slovakia, the Czech Republic, Romania and Hungary voting against, and Finland abstaining.

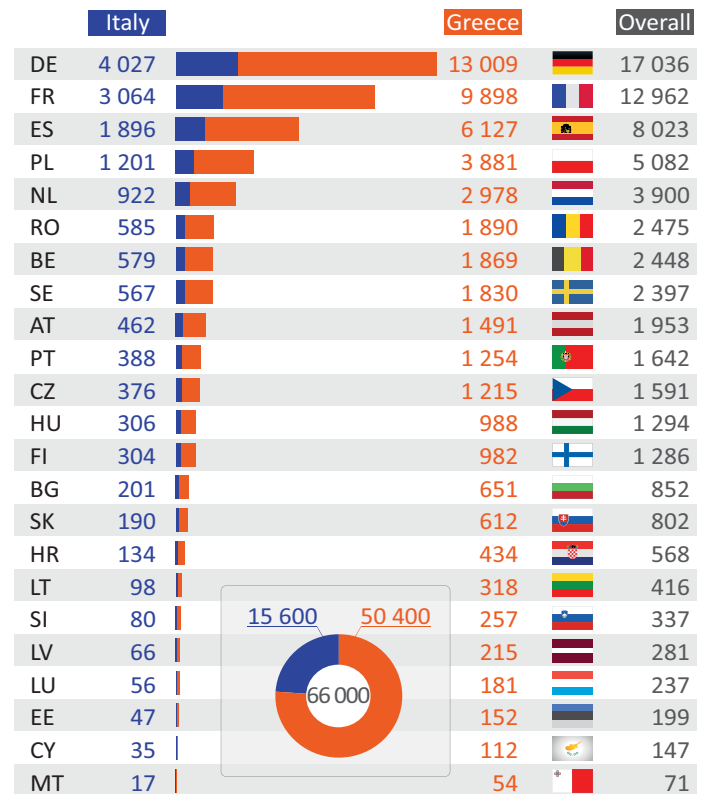
The Council Decision of 22 September establishes a temporary and exceptional mechanism for 120 000 persons in clear need of international protection to be relocated from Italy and Greece to other Member States³ over the coming two years.

The decision stipulates that 66 000 asylum-seekers will be relocated from Italy (15 600) and Greece (50 400) to other Member States, on the basis of a mandatory distribution scheme (see Figure 2). After a year, a further 54 000 asylum-seekers (the number that the Commission initially proposed be relocated from Hungary) will be relocated from Italy and Greece, or from other Member States coming under migratory pressure, if necessary.

Under both Council Decisions, only asylum-seekers who are in clear need of international protection will be eligible for relocation. This means only nationals of countries who have EU average asylum recognition rate of 75% or higher, according to the latest available [Eurostat data](#). According to [Q2 2015](#) Eurostat data, eligible asylum-seekers would come from Syria, Eritrea and Iraq.

Both Council Decisions stipulate that for each relocated person, the Member State of relocation will receive a lump sum of €6 000. However, only the Council Decision of

Figure 2 – Allocations of asylum-seekers from Italy and Greece



Data source: Council Decision (EU) 2015/1601 (all totals rounded).

22 September 2015 provides that the Member State benefitting from the relocation scheme will be entitled to a lump sum of €500 for each person relocated.

Concerns

Concerns have been raised that the agreed relocation of 160 000 asylum-seekers will be insufficient given the exceptional and unprecedented migratory flows to Europe that are likely to continue. In this regard, both the UN High Commissioner for Refugees ([UNHCR](#)) and the European Council on Refugees and Exiles ([ECRE](#)) have urged an increase in relocation places to as many as 200 000. Similarly, Amnesty International has [warned](#) that the relocation figures agreed will not significantly relieve the migratory pressure on the frontline Member States.

Moreover, legal issues as regards the validity of the Council Decision of 22 September 2015 have been raised by some Member States⁴ and academics.⁵

Next steps

On 9 September 2015, the Commission put forward a [proposal](#) for a Regulation of the European Parliament and of the Council establishing a permanent crisis relocation mechanism and amending [Regulation \(EU\) No 604/2013](#) (Dublin III Regulation).

This proposal is based on Article 78(2)(e) TFEU and, therefore, it should be adopted under the ordinary legislative procedure in which the Parliament and Council decide on an equal footing, in contrast to the two emergency measures.

The permanent relocation mechanism proposed by the Commission would be activated in specific crisis situations for the benefit of specific Member States, on the basis of a [mandatory distribution key](#) for determining the responsibility for examining applications for international protection.

In addition, Parliament will co-legislate with the Council on a number of further Commission proposals in the field of migration and asylum:

- a permanent relocation mechanism for asylum-seekers within the EU;
- an EU common list of 'safe countries of origin';
- changes to the Dublin rules for determining which Member State is responsible for processing applications for international protection of unaccompanied minors;
- a review of the EU Visa Code, including provisions on humanitarian visas;
- a legal migration measure on entry and living conditions for non-EU students and researchers;
- the 'smart borders' package, including a proposal for an 'entry-exit system' to prevent overstaying in the EU (the Commission is expected to present a new 'smart borders' package in late 2015 or early 2016).

Furthermore, the Parliament will exercise co-decision powers with regard to the following Commission proposals expected in December 2015/March 2016:

- strengthening Frontex, the EU border management agency, enhancing its mandate, and taking steps towards establishing a European Border and Coast Guard;
- a permanent scheme for resettling asylum-seekers from third countries across the EU;
- a reform of the Dublin III Regulation;
- a 'legal migration' package, including a revision of the EU Blue Card Directive.

Further reading

[Recent migration flows to the EU](#), G. Sabbati, EPRS 'At a glance' note, September 2015.

[EU migratory challenge: Possible responses to the refugee crisis](#), P. Bąkowski, E. Poptcheva and D. Ivanov, EPRS Briefing, September 2015.

[Enhancing the Common European Asylum System and Alternatives to Dublin](#), E. Guild et al., DG for Internal Policies, Pol. Dep. C, European Parliament, 2015.

Endnotes

- ¹ UNHCR data last consulted on 7 October 2015.
- ² Eurostat data for January-August 2015 (numbers for July and August are incomplete) last consulted on 7 October 2015.
- ³ The United Kingdom, with 'opt-in' rights under the Treaties, is not participating in the Council Decisions of 14 September 2015 and 22 September 2015, whereas Ireland has expressed its intention to participate. Moreover, Denmark is not participating in either Council Decision under its specific Treaty provisions.
- ⁴ Robert Fico, the Slovak Prime Minister, has [announced](#) that Slovakia is considering filing a complaint with the Court of Justice of the European Union, arguing that Council Decision (EU) 2015/1601 is illegal.
- ⁵ Prof. Steve Peers has [noted](#) the Council's failure to consult the Parliament again although it substantially amended the Commission's proposal.

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