



Committee on Budgets

2016/0133(COD)

17.5.2017

OPINION

of the Committee on Budgets

for the Committee on Civil Liberties, Justice and Home Affairs

on 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)0270 – C8-0173/2016 – 2016/0133(COD))

Rapporteur: Gérard Deprez

PA_Legam

SHORT JUSTIFICATION

The rapporteur welcomes the Commission proposal aimed at recasting and replacing Regulation (EU) No 604/2013 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. In view of the migration and refugee crisis, it has become necessary to reform the Dublin system, both to simplify it and enhance its effectiveness in practice, and to reflect the fact that some Member States have faced disproportionate pressures in terms of applications.

Corrective mechanism

The appropriations needed to implement this proposal amount to EUR 1,828 billion over the period 2017-2020. This should cover the transfer costs once the 'fairness mechanism' has been triggered for a Member State, and the establishment and operation of the IT system for the registration and automatic allocation of asylum seekers, as well as the cost of creating additional reception capacity and providing food and basic services to the transferred asylum seekers.

The rapporteur takes note of the Commission's position, which sets a threshold number of asylum applications above which the corrective allocation mechanism is automatically activated. He considers it necessary to establish such a threshold in order to avoid Member States having to face disproportionate pressures in terms of asylum applications and to dissuade them from requesting the use of this mechanism when they have only taken in a small number of asylum seekers based on the distribution key.

The rapporteur considers, however, that by setting the triggering threshold at 150% of Member States' reference allocations, the Commission is placing far too heavy a burden on some Member States as it leaves them to bear the sole responsibility for half as many applications again as their capacities allow, before the solidarity mechanism is activated. He also considers that too low a threshold, with no additional conditions attached, could lead to Member States losing sight of their responsibilities as regards border control and management. He therefore proposes that this threshold be set at 100% of the Member State's reference allocation, but that potentially lax border policies be prevented by adding a mutual solidarity clause under which the corrective mechanism can be suspended when the Member State fails to properly fulfil its obligations in terms of managing its external borders in accordance with the Regulation on the European Border and Coast Guard. Lastly, he proposes that the corrective mechanism should cease to apply only when the number of asylum applications to the beneficiary Member State has fallen to 90% of the reference allocation, thus avoiding repeated entries and re-entries into the system.

Transfer costs

Of the EUR 1,828 billion available, EUR 375 million are earmarked for covering the cost of transfers between Member States, for a total of 750 000 transferred persons. Article 42 of the recast proposal establishes that the beneficiary Member State transferring an asylum seeker to a Member State of allocation should receive a lump sum of EUR 500 for each person transferred.

The rapporteur supports the proposal that the state responsible for the transfer be entitled to compensation. He considers that flat-rate compensation is justified because it avoids the huge bureaucratic burden of checking the costs actually incurred. He believes, however, that in setting this amount at EUR 500 for each person transferred, on the grounds that any additional amounts over and above the actual costs can help the most exposed Member States, the Commission has not taken into account the recently-established emergency assistance instrument¹, which is designed to supplement the actions taken by Member States affected, *inter alia*, by the sudden massive influx of third-country nationals (refugees and migrants) onto their territory.

The rapporteur therefore proposes setting this lump sum at EUR 300 for each person transferred, which is a little closer to the actual estimated costs. The total amount for transfers for the period 2017-2020 would thus be EUR 225 million, which would allow savings of EUR 150 million. Of these savings, at least EUR 110 million could be used to prime the emergency assistance reserve (EUR 30 million in 2017 and EUR 40 million each year in 2018 and 2019) before the expiry of its legal base in March 2019.

Financial solidarity and creation of a ‘Dublin reserve’ under the AMIF

The rapporteur considers as legitimate, necessary and proportionate the Commission’s proposal to impose on Member States the obligation to contribute financially when they refuse to assume responsibility for the asylum-seekers allocated to them under the distribution mechanism. He stresses that this obligatory financial contribution is in no way punitive, but constitutes fair participation in the requisite solidarity among Member States (Article 80 TFEU). He nevertheless considers that the financial mechanism provided for by the Commission in this case is not the most appropriate, neither in terms of the amount, nor in terms of the method.

The rapporteur proposes that out of financial solidarity, a Member State which does fulfil its obligations under the corrective allocation mechanism should pay, for each applicant who would have been allocated to it, the first and second years EUR 50 000, the third and fourth years EUR 75 000, the fifth and following years EUR 100 000. These amounts would be paid in full to the AMIF fund created by Regulation (EU) No 516/2014, in order to establish a ‘Dublin reserve’. That reserve can, of course, only be established upon review of the AMIF, which under Article 60 of Regulation 514/2014 and Article 28 of Regulation (EU) No 516/2014 is to be by 30 June 2020 at the latest. If a Member State fails to pay, the Commission shall withhold these amounts from the payments due to that Member State from other Union funds.

The appropriations under this ‘Dublin reserve’ are intended to cover the granting of a lump sum per asylum seeker, distributed proportionally between Member States that participate properly in the corrective allocation mechanism. Decision (EU) 2015/1601 specifies that relocation measures shall receive funding under the AMIF. To this end, Member States of relocation shall receive a lump sum of EUR 6 000 for each applicant for international protection relocated on their territory. For resettlement, this amount is EUR 10 000 per person. The rapporteur therefore considers it appropriate to provide financial support to Member States participating in this solidarity mechanism. Under the proposed system, the

¹ Council Regulation (EU) 2016/369 of 15 March 2016 on the provision of emergency support within the Union.

per-applicant amounts of this financial support would increase in proportion to the burden some Member States have to shoulder owing to the non-participation of others.

Automated system for registration and follow-up of applications

Of the EUR 1,828 billion, EUR 3,603 million is to be allocated to the EU-LISA budget for the preparation, development and operational management of the automated IT system for the allocation of asylum seekers. Where the automated system for the registration and follow-up of applications and the allocation mechanism provided for in Article 44 has determined the Member State of allocation, this information must be automatically entered in Eurodac. It is therefore necessary to ensure the interoperability of the corrective mechanism central system and the Eurodac central system.

AMENDMENTS

The Committee on Budgets calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to take into account the following amendments:

Amendment 1

Proposal for a regulation Recital 30

Text proposed by the Commission

(30) The European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice established by Regulation (EU) No 1077/2011²¹ should be responsible for the preparation, development and the operational management of the central system and the communication infrastructure between the central system and the national infrastructures.

²¹ Regulation (EU) No 1077/2011 of the European Parliament and of the council of 25 October 2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (OJ L 286, 1.11.2011, p. 1).

Amendment

(30) The European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice established by Regulation (EU) No 1077/2011²¹ should be responsible for the preparation, development and the operational management of the central system, ***its interoperability with other systems*** and the communication infrastructure between the central system and the national infrastructures.

²¹ Regulation (EU) No 1077/2011 of the European Parliament and of the council of 25 October 2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (OJ L 286, 1.11.2011, p. 1).

Amendment 2

Proposal for a regulation Recital 32

Text proposed by the Commission

(32) A key based on the size of the population and of the economy of the Member States should be applied as a point of reference in the operation of the corrective allocation mechanism in conjunction with a threshold, so as to enable the mechanism to function as a means of assisting Member States under disproportionate pressure. The application of the corrective allocation for the benefit of a Member State should be triggered automatically where the number of applications for international protection for which a Member State is responsible exceeds **150%** of the figure identified in the reference key. In order to comprehensively reflect the efforts of each Member State, the number of persons effectively resettled to that Member State should be added to the number of applications for international protection for the purposes of this calculation.

Amendment

(32) A key based on the size of the population and of the economy of the Member States should be applied as a point of reference in the operation of the corrective allocation mechanism in conjunction with a threshold, so as to enable the mechanism to function as a means of assisting Member States under disproportionate pressure. The application of the corrective allocation for the benefit of a Member State should be triggered automatically where the number of applications for international protection for which a Member State is responsible exceeds **100%** of the figure identified in the reference key. In order to comprehensively reflect the efforts of each Member State, the number of persons effectively resettled to that Member State should be added to the number of applications for international protection for the purposes of this calculation.

Justification

Considère qu'en fixant le seuil de déclenchement à 150 % de sa part de référence, la Commission laisse peser sur certains États membres une charge excessive ou ce dernier doit assumer seul un nombre de demandes qui dépasse de moitié ses capacités avant d'activer le mécanisme de solidarité. Estime également qu'un seuil trop bas sans conditions supplémentaires pourrait entraîner la non responsabilisation d'un État membre dans le contrôle et la gestion de ses frontières. Propose dès lors de fixer ce seuil à 100 % de la part de référence d'un État membre mais de prévenir une éventuelle politique de laxisme au frontière par l'ajout d'une clause de solidarité réciproque permettant la suspension du mécanisme de correction lorsqu'un État membre ne s'acquitte pas convenablement de ses obligations de gestion de sa frontière extérieure et ce conformément au règlement relatif à la création d'une agence européenne de garde-frontières et de garde-côtes (Cfr ajout d'un article 43 a)

Amendment 3

Proposal for a regulation Recital 34

Text proposed by the Commission

(34) Under the allocation mechanism, the costs of transfer of an applicant to the Member State of allocation should be reimbursed from the EU budget.

Amendment

(34) Under the allocation mechanism, the costs of transfer of an applicant to the Member State of allocation should be reimbursed from the EU budget ***as a lump sum of EUR 300 per person transferred.***

Justification

La somme proposée de 500 EUR suit l'approche établie dans la décision (UE) 2015/1601 du Conseil, dans laquelle le remboursement des frais de transfert servait également à aider un État membre qui se trouvait dans une situation d'urgence ou confronté à un nombre disproportionné de demandes d'asile. Entre temps, un fonds d'aide d'urgence a été créé à cette fin. Votre rapporteur pour avis Budget estime dès lors qu'il convient de diminuer ce montant à 300 EUR afin qu'il corresponde un peu plus aux coûts réels de transferts. Sur le montant total prévu dans la fiche financière de la proposition 1.825 milliards sont prévus pour financer ces transferts. En diminuant la somme forfaitaire à 300 EUR, ce sont 730 millions économisés qui devraient servir à alimenter le fond d'aide urgence.

Amendment 4

Proposal for a regulation Recital 35

Text proposed by the Commission

(35) A Member State of allocation ***may decide*** not ***to*** accept the allocated applicants during a twelve month period, ***in which case it*** should enter this information in the automated system and notify the other Member States, the Commission and the European Union Agency for Asylum. Thereafter the applicants that would have been allocated to that Member State should be allocated to the other Member States instead. The Member State which ***temporarily*** does not take part in the corrective allocation ***should make a solidarity contribution of EUR 250 000 per applicant not accepted to the Member***

Amendment

(35) A Member State of allocation ***which does*** not accept the allocated applicants during a twelve month period should enter this information in the automated system and notify the other Member States, the Commission and the European Union Agency for Asylum. Thereafter the applicants that would have been allocated to that Member State should be allocated to the other Member States instead. ***A fund (the 'Dublin Reserve Fund') should be established and the Member State which does not take part in the corrective allocation should pay into that fund, with regard to each allocated***

State that was determined as responsible for examining those applications. The Commission should lay down the practical modalities for the implementation of *the solidarity contribution mechanism* in an implementing act. *The* European Union Agency for Asylum will monitor and report to the Commission on a yearly basis *on the application of the financial solidarity mechanism.*

applicant whom the Member State does not accept, annual payments of EUR 50 000 for the first and the second years, EUR 75 000 for the third and the fourth years, and EUR 100 000 for subsequent years. The funding under the Dublin Reserve Fund is intended to cover the granting of a lump sum per applicant for international protection, distributed proportionally between the Member States that participate in the corrective allocation mechanism. If a Member State fails to pay, the Commission should withhold the same amount from the payments due to that Member State from other Union funds. The Commission should lay down the practical modalities for the implementation of *the above-specified principle* in an implementing act *and the* European Union Agency for Asylum will monitor and report to the Commission on a yearly basis.

Amendment 5

Proposal for a regulation Recital 41

Text proposed by the Commission

(41) Continuity between the system for determining the Member State responsible established by Regulation (EU) No 604/2013 and the system established by this Regulation should be ensured. Similarly, consistency should be ensured between this Regulation and Regulation [Proposal for a Regulation recasting Regulation (EU) No 603/2013 of the European Parliament and of the Council].

Amendment

(41) Continuity between the system for determining the Member State responsible established by Regulation (EU) No 604/2013 and the system established by this Regulation should be ensured. Similarly, consistency should be ensured between this Regulation and Regulation [Proposal for a Regulation recasting Regulation (EU) No 603/2013 of the European Parliament and of the Council]. *Where the automated system for the registration and follow-up of applications, and for the allocation mechanism provided for in Article 44, has determined the Member State of allocation, this information should be automatically entered in Eurodac. It is therefore necessary to ensure the interoperability of*

***the corrective mechanism central system
and the Eurodac central system.***

Justification

This amendment makes explicit the link between the two regulations in question, with a view to ensuring coherence between the two systems on the basis of their interoperability.

Amendment 6

**Proposal for a regulation
Article 34 – paragraph 2**

Text proposed by the Commission

2. Paragraph 1 applies where the automated system referred to in Article 44(1) indicates that the number of applications for international protection for which a Member State is responsible under the criteria in Chapter III, Articles 3(2) or (3), 18 and 19, in addition to the number of persons effectively resettled, is higher than **150%** of the reference number for that Member State as determined by the key referred to in Article 35.

Amendment

2. Paragraph 1 applies where the automated system referred to in Article 44(1) indicates that the number of applications for international protection for which a Member State is responsible under the criteria in Chapter III, Articles 3(2) or (3), 18 and 19, in addition to the number of persons effectively resettled, is higher than **100%** of the reference number for that Member State as determined by the key referred to in Article 35.

Justification

Considère qu'en fixant le seuil de déclenchement à 150 % de sa part de référence, la Commission laisse peser sur certains États membres une charge excessive ou ce dernier doit assumer seul un nombre de demandes qui dépasse de moitié ses capacités avant d'activer le mécanisme de solidarité. Estime également qu'un seuil trop bas sans conditions supplémentaires pourrait entraîner la non responsabilisation d'un État membre dans le contrôle et la gestion de ses frontières. Propose dès lors de fixer ce seuil à 100 % de la part de référence d'un État membre mais de prévenir une éventuelle politique de laxisme au frontière par l'ajout d'une clause de solidarité réciproque permettant la suspension du mécanisme de correction lorsqu'un État membre ne s'acquitte pas convenablement de ses obligations de gestion de sa frontière extérieure et ce conformément au règlement relatif à la création d'une agence européenne de garde-frontières et de garde-côtes (Cfr ajout d'un article 43 a)

Amendment 7

**Proposal for a regulation
Article 37 – title**

Financial solidarity

Financial solidarity and ***establishment of the Dublin Reserve Fund***

Amendment 8

Proposal for a regulation Article 37 – paragraph 1

Text proposed by the Commission

Amendment

1. A Member State ***may***, at the end of the three-month period after the entry into force of this Regulation and at the end of each twelve-month period thereafter, enter in the automated system ***that it will temporarily not take part in the corrective allocation mechanism set out in Chapter VII of this Regulation as a Member State of allocation*** and notify this to the Member States, the Commission and the European Union Agency for Asylum.

1. A Member State ***which fails to fulfil its obligations under the corrective allocation mechanism set out in Chapter VII, as a Member State of allocation, should***, at the end of the three-month period after the entry into force of this Regulation and at the end of each twelve-month period thereafter, enter ***that information*** in the automated system, and notify this to the Member States, the Commission and the European Union Agency for Asylum.

Amendment 9

Proposal for a regulation Article 37 – paragraph 3

Text proposed by the Commission

Amendment

3. At the end of the twelve-month period referred to in paragraph 2, the automated system shall communicate to the Member State not taking part in the corrective allocation mechanism the number of applicants for whom it would have otherwise been the Member State of allocation. That Member State shall thereafter ***make a solidarity contribution of EUR 250 000 per each applicant who would have otherwise been allocated to that Member State during the respective***

3. At the end of the twelve-month period referred to in paragraph 2, the automated system shall communicate to the Member State not taking part in the corrective allocation mechanism the number of applicants for whom it would have otherwise been the Member State of allocation. ***A fund (the ‘Dublin Reserve Fund’) shall be established and the Member State not taking part in the corrective allocation mechanism shall pay into that fund, with regard to each***

twelve-month period. The solidarity contribution shall be paid to the Member State determined as responsible for examining the respective applications.

allocated applicant whom the Member State does not accept, annual payments of EUR 50 000 for the first and second years, EUR 75 000 for the third and the fourth years,, and EUR 100 000 for subsequent years. The funding under the Dublin Reserve Fund shall cover the granting of a lump sum per applicant for international protection, distributed proportionally between the Member States that participate in the corrective allocation mechanism. If a Member State fails to pay, the Commission shall withhold the same amount from the payments due to that Member State from other Union funds.

Amendment 10

Proposal for a regulation Article 42 – paragraph 1

Text proposed by the Commission

For the costs to transfer an applicant to the Member State of allocation, the benefitting Member State shall be refunded by a lump sum of EUR **500** for each person transferred pursuant to Article 38(c). This financial support shall be implemented by applying the procedures laid down in Article 18 of Regulation (EU) No 516/2014.

Amendment

For the costs to transfer an applicant to the Member State of allocation, the benefitting Member State shall be refunded by a lump sum of EUR **300** for each person transferred pursuant to Article 38(c). This financial support shall be implemented by applying the procedures laid down in Article 18 of Regulation (EU) No 516/2014.

Justification

La somme proposée de 500 EUR suit l'approche établie dans la décision (UE) 2015/1601 du Conseil, dans laquelle le remboursement des frais de transfert servait également à aider un État membre qui se trouvait dans une situation d'urgence ou confronté à un nombre disproportionné de demandes d'asile. Entre temps, un fonds d'aide d'urgence a été créé à cette fin. Votre rapporteur pour avis Budget estime dès lors qu'il convient de diminuer ce montant à 300 EUR afin qu'il corresponde un peu plus aux coûts réels de transferts. Sur le montant total prévu dans la fiche financière de la proposition 1.825 milliards sont prévus pour financer ces transferts. En diminuant la somme forfaitaire à 300 EUR, ce sont 730 millions économisés qui devraient servir à alimenter le fond d'aide urgence.

Amendment 11

Proposal for a regulation

Article 43 – paragraph 1

Text proposed by the Commission

The automated system shall notify the Member States and the Commission as soon as the number of applications in the benefitting Member State for which it is the Member State responsible under this Regulation is below **150%** of its share pursuant to Article 35(1).

Amendment

The automated system shall notify the Member States and the Commission as soon as the number of applications in the benefitting Member State for which it is the Member State responsible under this Regulation is below **90 %** of its share pursuant to Article 35(1).

Amendment 12

Proposal for a regulation

Article 43 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

Should a Member State fail to properly fulfil its obligations in terms of managing its external borders in accordance with Regulation (EU) 2016/1624 of the European Parliament and of Council^{1a}, the Council, acting by qualified majority, may decide to suspend the corrective allocation mechanism. The decision to suspend that mechanism shall be valid for no longer than a fixed period of one year.

^{1a} Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard and amending Regulation (EU) 2016/399 of the European Parliament and of the Council and repealing Regulation (EC) No 863/2007 of the European Parliament and of the Council, Council Regulation (EC) No 2007/2004 and Council Decision 2005/267/EC (OJ L 251, 16.9.2016, p. 1).

Amendment 13

Proposal for a regulation

Article 44 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The interoperability of the computerised system and Eurodac shall be ensured by means of a direct communication channel between the central systems, so as to enable the automatic transmission of information on the determination, through the corrective mechanism, of the Member State of allocation.

Amendment 14

Proposal for a regulation

Article 44 – paragraph 3

Text proposed by the Commission

Amendment

3. The European agency for the operational management of large scale IT systems in the area of freedom, security and justice established by Regulation (EU) No 1077/2011 shall be responsible for the preparation, development and the operational management of the central system and the communication infrastructure between the central system and the national infrastructures.

3. The European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice established by Regulation (EU) No 1077/2011²¹ should be responsible for the preparation, development and the operational management of the central system, **its interoperability with other systems** and the communication infrastructure between the central system and the national infrastructures.

PROCEDURE – COMMITTEE ASKED FOR OPINION

Title	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)
References	COM(2016)0270 – C8-0173/2016 – 2016/0133(COD)
Committee responsible Date announced in plenary	LIBE 12.9.2016
Opinion by Date announced in plenary	BUDG 12.9.2016
Rapporteur Date appointed	Gérard Deprez 15.6.2016
Discussed in committee	9.2.2017
Date adopted	11.5.2017
Result of final vote	+: 24 –: 5 0: 4
Members present for the final vote	Jean Arthuis, Lefteris Christoforou, Gérard Deprez, Manuel dos Santos, José Manuel Fernandes, Eider Gardiazabal Rubial, Monika Hohlmeier, Bernd Kölmel, Zbigniew Kuźmiuk, Vladimír Maňka, Clare Moody, Younous Omarjee, Pina Picierno, Paul Rübig, Petri Sarvamaa, Jordi Solé, Patricija Šulin, Eleftherios Synadinos, Indrek Tarand, Isabelle Thomas, Inese Vaidere, Monika Vana, Daniele Viotti, Marco Zanni
Substitutes present for the final vote	Anneli Jäätteenmäki, Louis Michel, Stanisław Ożóg, Tomáš Zdechovský
Substitutes under Rule 200(2) present for the final vote	Georges Bach, Gabriele Preuß, Claudia Schmidt, Axel Voss, Rainer Wieland

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

24	+
ALDE	Jean Arthuis, Gérard Deprez, Anneli Jäätteenmäki, Louis Michel
PPE	Georges Bach, Lefteris Christoforou, José Manuel Fernandes, Monika Hohlmeier, Paul Rübig, Petri Sarvamaa, Claudia Schmidt, Patricija Šulin, Inese Vaidere, Axel Voss, Rainer Wieland
S&D	Eider Gardiazabal Rubial, Vladimír Maňka, Clare Moody, Pina Picierno, Gabriele Preuß, Isabelle Thomas, Daniele Viotti, Manuel dos Santos
Verts/ALE	Indrek Tarand

5	-
ENF	Marco Zanni
NI	Eleftherios Synadinos
PPE	Tomáš Zdechovský
Verts/ALE	Jordi Solé, Monika Vana

4	0
ECR	Zbigniew Kuźmiuk, Bernd Kölmel, Stanisław Ożóg
GUE/NGL	Younous Omarjee

Key to symbols:

+ : in favour

- : against

0 : abstention