



2016/0089(NLE)

13.5.2016

DRAFT REPORT

on the proposal for a Council decision amending Council Decision (EU)
2015/1601 of 22 September 2015 establishing provisional measures in the area
of international protection for the benefit of Italy and Greece
(COM(2016)0171 – C8-0133/2016 – 2016/0089(NLE))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Ska Keller

Symbols for procedures

*	Consultation procedure
***	Consent procedure
***I	Ordinary legislative procedure (first reading)
***II	Ordinary legislative procedure (second reading)
***III	Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the ■ symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a Council decision amending Council Decision (EU) 2015/1601 of 22 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and Greece
(COM(2016)0171 – C8-0133/2016 – 2016/0089(NLE))

(Consultation)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2016)171),
 - having regard to Article 78(3) of the Treaty on the Functioning of the European Union, pursuant to which the Council consulted Parliament (C8-0133/2016),
 - having regard to the opinion of the Committee on Legal Affairs on the proposed legal basis;
 - having regard to Rules 59 and 39 of its Rules of Procedure,
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to alter its proposal accordingly, in accordance with Article 293(2) of the Treaty on the Functioning of the European Union;
 3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
 4. Asks the Council to consult Parliament again if it intends to substantially amend the Commission proposal;
 5. Instructs its President to forward its position to the Council and the Commission.

Amendment 1

Proposal for a decision Title

Text proposed by the Commission

Proposal for a Council Decision amending Council Decision (EU) 2015/1601 of 22 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and Greece

Amendment

Proposal for a **regulation of the European Parliament and of the Council** amending Council Decision (EU) 2015/1601 of 22 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and Greece

Amendment 2

Proposal for a decision

Citation 1

Text proposed by the Commission

Having regard to the Treaty on the Functioning of the European Union, and in particular **Article 78(3)** thereof,

Amendment

Having regard to the Treaty on the Functioning of the European Union, and in particular **Article 78(2) and Article 80** thereof,

Or. en

Amendment 3

Proposal for a decision

Citation 3

Text proposed by the Commission

Having regard to the opinion of the European Parliament,

Amendment

Acting in accordance with the ordinary legislative procedure,

Or. en

Amendment 4

Proposal for a decision

Recital -1 (new)

Text proposed by the Commission

Amendment

(-1) Article 78(2) TFEU provides that the European Parliament and the Council , acting in accordance with the ordinary legislative procedure, are to adopt measures developing a common

Amendment 5

Proposal for a decision

Recital -1 a (new)

Text proposed by the Commission

Amendment

(-1a) According to Article 80 TFEU, the policies of the Union in the area of border checks, asylum and immigration and their implementation are to be governed by the principle of solidarity and fair sharing of responsibility between the Member States, and Union acts adopted in this area are to contain appropriate measures to give effect to that principle.

Amendment 6

Proposal for a decision

Recital 1 a (new)

Text proposed by the Commission

Amendment

(1a) Pursuant to Article 78(3), the European Parliament is only consulted. That article provides that the Council, on a proposal from the Commission and after consulting the European Parliament, may adopt provisional measures for the benefit of Member States, in the event of those Member States being confronted with an emergency situation characterised by a sudden inflow of nationals of third countries.

Amendment 7

Proposal for a decision Recital 1 b (new)

Text proposed by the Commission

Amendment

(1b) The European Parliament approved a statement attached to its legislative resolution of 9 September 2015 on the proposal for a Council Decision establishing provisional measures in the area of international protection for the benefit of Italy and Greece in which it insisted that Article 78(2) jointly with Article 80 TFEU, is the correct legal basis. The European Parliament accepted Article 78(3) only in light of the need to adopt immediate emergency measures for the benefit of Greece and Italy. The European Parliament further stressed the fact that the adoption of the Council Decision was without prejudice to the range of legal bases available to the co-legislator in the future, in particular with regard to Article 78 jointly with Article 80 TFEU. In its legislative resolution of 17 September 2015 on the proposal for a Council Decision establishing provisional measures in the area of international protection for the benefit of Italy, Greece and Hungary, the European Parliament referred to its legislative resolution of 9 September and repeated that its approval of the Commission proposal has to be seen in light of the exceptional situation of urgency and the need to address the situation with no further delay.

Or. en

Amendment 8

Proposal for a decision

Recital 3

Text proposed by the Commission

Amendment

(3) Article 1(2) of Decision (EU) 2015/1601 provides that the Commission is to keep under constant review the situation regarding massive inflows of third country nationals into Member States. The Commission should submit, as appropriate, proposals to amend that Decision in order to take into account the evolution of the situation on the ground and its impact upon the relocation mechanism, as well as the evolving pressure on Member States, in particular frontline Member States.

deleted

Or. en

Amendment 9

Proposal for a decision

Recital 3 a (new)

Text proposed by the Commission

Amendment

(3a) Article 4(1c) of Decision (EU) 2015/1601 provides that 54 000 applicants should be relocated. Relocation is defined in Article 2(e) of that Decision as the transfer of an applicant from the territory of the Member State responsible for examining the application for international protection to the territory of the Member State of relocation. Relocation does not include the resettlement or admission of persons in need of international protection from a third country to the territory of a Member State.

Amendment 10**Proposal for a decision****Recital 4***Text proposed by the Commission*

(4) The EU Heads of State or Government agreed on 7 March to work on the basis of a series of principles for an agreement with Turkey, including to resettle, for every Syrian readmitted by Turkey from Greek islands, another Syrian from Turkey to the Member States, within the framework of the existing commitments. *Those principles were further developed in the Commission's Communication on next operational steps in EU-Turkey cooperation in the field of migration¹² which called for taking the necessary steps to transfer some of the commitments under the existing relocation decisions, notably all or part of the currently unallocated 54 000 places, to the so called 1:1 scheme.*

Amendment

(4) The EU Heads of State or Government agreed on 7 March to work on the basis of a series of principles for an agreement with Turkey, including to resettle, for every Syrian readmitted by Turkey from Greek islands, another Syrian from Turkey to the Member States, within the framework of the existing commitments. *Under such a 1:1 scheme, the protection of persons fleeing war and persecution is not guaranteed. The right to seek asylum and the principle of non-refoulement enshrined in Union law, in the 1951 Geneva Convention and in the 1967 Protocol thereto are the centrepiece of Union and international refugee protection. They should not be undermined by a statement of the EU Heads of State or Government on cooperation with Turkey.*

Or. en

Amendment 11**Proposal for a decision****Recital 4 a (new)***Text proposed by the Commission**Amendment*

(4a) In the framework of the joint Action plan between Turkey and the Union, the Commission on 15 December 2015 recommended to the Member States to establish a humanitarian admission

scheme with Turkey in order to ensure an orderly, managed, safe and dignified arrival of persons in need of protection forcefully displaced by the conflict in Syria, in place of dangerous and irregular migration. The scheme was designed to create legal pathways for Syrians present in Turkey to the Union. However, the Member States have not so far agreed on the scheme.

Or. en

Amendment 12

Proposal for a decision Recital 4 b (new)

Text proposed by the Commission

Amendment

(4b) Instead of making available additional possibilities for the safe arrival of refugees in the Union, Member States have insisted on not going beyond their existing commitments. As a consequence, they have dedicated their remaining commitments^{1a} on the resettlement of persons in need of international protection from a range of countries hosting large refugee populations exclusively to Turkey. Turkey benefits from all the remaining 18 000 places under the European resettlement scheme. By contrast, countries with the largest share of Syrian refugees per capita, such as Lebanon and Jordan, are now excluded.

^{1a} Conclusions of Representatives of Governments of Member States meeting within the Council on 20 July 2015

Or. en

Amendment 13

Proposal for a decision

Recital 5

Text proposed by the Commission

(5) Resettlement, humanitarian admission, or other forms of legal admission from Turkey under national and multilateral schemes can be expected to relieve the migratory pressure on Member States *which are beneficiaries of relocation under Decision (EU) 2015/1601* by providing a legal and safe pathway to enter the Union and by discouraging irregular entries. *Therefore, the solidarity efforts of Member States consisting in admitting to their territory Syrian nationals present in Turkey who are in clear need of international protection should be taken into account in relation to the 54 000 applicants for international protection referred to above. The number of persons so admitted from Turkey by a Member State should be deducted from the number of persons to be relocated to that Member State under Decision 2015/1601 in relation to those 54 000 applicants.*

Amendment

(5) Resettlement, humanitarian admission, or other forms of legal admission from Turkey under national and multilateral schemes can be expected to relieve the migratory pressure on Member States by providing a legal and safe pathway to enter the Union and by discouraging irregular entries. *Therefore they should be extended. In its resolution of 17 December 2014 on the situation in the Mediterranean and the need for a holistic EU approach to migration, the European Parliament called for developing more safe and lawful routes for asylum seekers and refugees into the Union, including a binding and mandatory Union legislative approach to resettlement, the establishment of humanitarian admission programmes by all Member States and a more extensive use of humanitarian visas. Those measures should be complementary to the relocation schemes adopted under Decisions (EU) 2015/1523 and (EU) 2015/1601.*

Or. en

Amendment 14

Proposal for a decision

Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) Paragraph 2 of Council Directive 2003/86/EC^{1a} provides for measures concerning family reunification to be

adopted in conformity with the obligation to protect the family and respect family life enshrined in many instruments of international law. Family reunification cannot therefore be restricted through Union policies, solidarity or emergency measures, but should be respected and promoted by Member States in all cases. Family reunification visas should not be limited in number.

^{1a.} Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification.

Or. en

Amendment 15

Proposal for a decision Recital 7

Text proposed by the Commission

(7) The commitments that Member States undertook as part of the resettlement scheme agreed in the Conclusions of the Representatives of the Governments of the Member States meeting within the Council of 20 July 2015 should not be affected by this Decision and should not count towards meeting the obligations under Decision 2015/1601. ***Therefore, a Member State which chooses to meet its obligations under Decision (EU) 2015/1601 by admitting Syrians present in Turkey through resettlement, cannot count this effort as constituting part of its commitment under the 20 July 2015 resettlement scheme.***

Amendment

(7) The commitments that Member States undertook as part of the resettlement scheme agreed in the Conclusions of the Representatives of the Governments of the Member States meeting within the Council of 20 July 2015 should not be affected by this Decision and should not count towards meeting the obligations under Decision 2015/1601.

Or. en

Amendment 16

Proposal for a decision

Recital 8

Text proposed by the Commission

Amendment

(8) To ensure a proper monitoring of the situation, Member States should report on a monthly basis to the Commission on Syrians present in Turkey admitted to their territory under the option provided for in this amendment specifying under which scheme, national or multilateral, the person has been admitted and the form of legal admission.

deleted

Or. en

Amendment 17

Proposal for a decision

Recital 8 a (new)

Text proposed by the Commission

Amendment

(8a) Resettlement should not take place at the expense of relocation. Both are important instruments of solidarity. Relocation is a form of internal solidarity among Member States, while resettlement and humanitarian admission or other kinds of admission are a form of external solidarity with third countries hosting the majority of refugees.

Or. en

Amendment 18

Proposal for a decision

Recital 8 b (new)

(8b) According to recent data by the UNHCR, 53 859 persons in search for international protection currently remain in Greece, the vast majority of them are Syrians (45 %), Iraqis (22 %) and Afghans (21 %). Despite a reduction of the number of arrivals, and given the political nature of the statement 18 March 2016 of the EU Heads of State or Government on cooperation with Turkey, it is highly uncertain if the current drop in arrivals of asylum seekers to Greece will persist. On the other hand, refugees might turn to new routes, such as the central Mediterranean route to Italy, where the UNHCR reports a 42,5 % increase in the number of migrants arriving via Libya compared with the same period in 2015. Therefore, it can be expected that the need for relocation places will remain high.

Or. en

Amendment 19

Proposal for a decision Recital 8 c (new)

(8c) Afghans should also be eligible for relocation under the Decision (EU) 2015/1601. In 2015 the number of asylum applications filed by Afghans in the Union reached an unprecedented level of around 180 000, making Afghans the second largest group of asylum-seekers to the Union in 2015. By far most of them arrive in Greece. Many of them are unaccompanied minors. They have special protection needs, which Greece, due to the ongoing acute asylum pressure,

is unable to meet. The deteriorating security situation in Afghanistan, with a record number of terrorist attacks and civilian casualties in 2015, has resulted in a significant increase in the recognition rate of Afghan asylum seekers in the Union: from 43 % in 2014 to 66 % in 2015, according to Eurostat data.

Or. en

Amendment 20

Proposal for a decision Recital 8 d (new)

Text proposed by the Commission

Amendment

(8d) Member States of relocation need to implement fully their obligations under Decisions (EU) 2015/1523 and (EU) 2015/1601 with a view to alleviating the pressure on frontline Member States. Member States of relocation should urgently and dramatically increase their efforts to reply to the urgent humanitarian situation in Greece and prevent the deterioration of the situation in Italy. So far, Member States have made available not even 5 % of the relocation places. Until 10 May 2016 only 591 persons from Italy and 881 persons from Greece were effectively relocated. The Commission, in its first report on relocation and resettlement of 16 March 2016, pointed out that Member States have to achieve a monthly relocation rate of at least 5 680 in order to fulfil their relocation obligations within the two-year deadline.

Or. en

Amendment 21

Proposal for a decision

Recital 8 e (new)

Text proposed by the Commission

Amendment

(8e) The procedure for relocation in general exceeds the two-month time limit set out in Decisions (EU) 2015/1523 and (EU) 2015/1601. Therefore, as a matter of priority, Member States should accelerate the relocation process, including by reducing the time needed for security clearances before departure. In its report of 16 March 2016, the Commission sets a target of maximum two weeks for the relocation procedure.

Or. en

Amendment 22

Proposal for a decision

Article 1 – paragraph 1 – point -1 (new)

Decision (EU) 2015/1601

Article 3 – paragraph 2

Present text

Amendment

2. Relocation pursuant to this Decision shall be applied only in respect of **an applicant** belonging to a nationality for which the proportion of decisions granting international protection among decisions taken at first instance on applications for international protection as referred to in Chapter III of Directive 2013/32/EU of the European Parliament and of the Council (13) is, according to the latest available updated quarterly Union-wide average Eurostat data, 75 % or higher. In the case of stateless persons, the country of former habitual residence shall be taken into

-1. In Article 3, paragraph 2 is replaced by the following:

“2. Relocation pursuant to this Decision shall be applied only in respect of *applicants with Syrian, Iraqi, Eritrean or Afghan nationality or for those* belonging to a nationality for which the proportion of decisions granting international protection among decisions taken at first instance on applications for international protection as referred to in Chapter III of Directive 2013/32/EU of the European Parliament and of the Council (1) is, according to the latest available updated quarterly Union-wide average Eurostat data, 75 % or higher. In the case of stateless persons, the

account. Quarterly updates shall be taken into account only in respect of applicants who have not already been identified as applicants who could be relocated in accordance with Article 5(3) of this Decision.

country of former habitual residence shall be taken into account. Quarterly updates shall be taken into account only in respect of applicants who have not already been identified as applicants who could be relocated in accordance with Article 5(3) of this Decision.”

Or. en

Amendment 23

Proposal for a decision

Article 1 – paragraph 1

Decision (EU) 2015/1601

Article 4 – paragraph 3a

Text proposed by the Commission

Amendment

In Article 4 of Decision (EU) 2015/1601 the following paragraph 3a is inserted:

deleted

."3a. In relation to the relocation of applicants referred to in point (c) of paragraph 1, the admission by Member States to their territory of Syrian nationals present in Turkey under national or multilateral legal admission schemes for persons in clear need of international protection other than the resettlement scheme which was the subject of the Conclusions of the Representatives of the Governments of the Member States meeting within the Council of 20 July 2015 shall lead to a corresponding reduction of the obligation of the respective Member State.

Article 10 shall apply mutatis mutandis for every such legal admission leading to a reduction of the relocation obligation. Every month Member States shall report to the Commission on the number of persons legally admitted for the purposes of this paragraph, indicating the type of scheme under which the admission has taken place and the form of legal

admission used."

Or. en

Amendment 24

Proposal for a decision

Article 1 – paragraph 1 – point 1 a (new)

Decision (EU) 2015/1601

Article 5 – paragraph 2

Present Text

2. Member States shall, at regular intervals, and at least every 3 months, indicate the number of applicants who can be relocated swiftly to their territory and any other relevant information.

Amendment

1a. In Article 5, paragraph 2 is replaced by the following:

“2. Member States shall, at regular intervals, and at least every 3 months, indicate the number of applicants who can be relocated swiftly to their territory and any other relevant information. Member States shall make available at least one-third of their relocation places by 31 December 2016.”

Or. en

Amendment 25

Proposal for a decision

Article 1 – paragraph 1 – point 1 b (new)

Decision (EU) 2015/1601

Article 5 – paragraph 4

Present text

4. Following approval of the Member State of relocation, as soon as possible, take a decision to relocate each of the identified applicants to a specific Member States of relocation, in consultation with EASO, and shall notify the applicant in

Amendment

1b. In Article 5, paragraph 4 is replaced by the following:

“4. Following approval of the Member State of relocation, Italy and Greece shall, as soon as possible, take a decision to relocate each of the identified applicants to a specific Member States of relocation, in consultation with EASO, and shall notify

accordance with Article 6(4). The Member State of relocation may decide not to approve the relocation of an applicant only if there are reasonable grounds as referred to in paragraph 7 of this Article.

the applicant in accordance with Article 6(4). The Member State of relocation may decide not to approve the relocation of an applicant only if there are reasonable grounds as referred to in paragraph 7 of this Article. ***If the Member State of relocation does not approve the relocation within two weeks, that Member State shall be considered to have given its approval.***

Or. en

Amendment 26

Proposal for a decision

Article 1 – paragraph 1 – point 1 c (new)

Decision (EU) 2015/1601

Article 5 – paragraph 10

Present text

10. The relocation procedure provided for in this Article shall be completed as swiftly as possible and not later than 2 months from the time of the indication given by the Member State of relocation as referred to in paragraph 2, ***unless the approval by the Member State of relocation referred to in paragraph 4 takes place less than 2 weeks before the expiry of that 2-month period. In such case, the time limit for completing the relocation procedure may be extended for a period not exceeding a further 2 weeks. In addition, the time limit may also be extended, for a further 4-week period, as appropriate, where Italy or Greece show objective practical obstacles that prevent the transfer from taking place.***

Amendment

1c. In Article 5, paragraph 10 is replaced by the following:

“10. The relocation procedure provided for in this Article shall be completed as swiftly as possible and no later than 2 months from the time of the indication given by the Member State of relocation referred to in paragraph 2. The time limit may be extended for a 4-week period, as appropriate, where Italy or Greece show objective practical obstacles that prevent the transfer from taking place.”

Or. en

