



TEXTS ADOPTED

P8_TA(2015)0306

Provisional measures in the area of international protection for the benefit of Italy and Greece *

European Parliament 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 (COM(2015)0286 – C8-0156/2015 – 2015/0125(NLE))

(Consultation)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2015)0286),
 - having regard to Article 78(3) of the Treaty on the Functioning of the European Union, pursuant to which the Council consulted Parliament (C8-0156/2015),
 - having regard to the letter of the Council of 30 July 2015 by which it informed Parliament of its general approach,
 - having regard to the letter of the Committee on Budgets,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A8-0245/2015),
1. Approves the Commission proposal as amended;
 2. Approves its statement annexed to this resolution;
 3. 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;
 4. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;

5. Asks the Council to consult Parliament again if it intends to substantially amend the Commission proposal;
6. Instructs its President to forward its position to the Council and the Commission.

Amendment 1

Proposal for a decision

Citation 3 a (new)

Text proposed by the Commission

Amendment

Having regard to the Charter of Fundamental Rights of the European Union, in particular Chapter I and Articles 18 and 19 thereof,

Amendment 2

Proposal for a decision

Recital 2 a (new)

Text proposed by the Commission

Amendment

(2a) In line with Article 78(3) and Article 80 of the Treaty, the solidarity measures envisaged in this Decision are binding.

Amendment 3

Proposal for a decision

Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) The temporary measures for emergency relocation are only one part of the holistic approach to migration as outlined in the Commission's communication of 13 May 2015 entitled, 'A European Agenda on Migration' and the forthcoming own-initiative report by the European Parliament. The European Parliament stresses that all dimensions of the holistic approach are important and should be advanced in parallel. At its meeting of 25 and 26 June 2015, the European Council agreed, in particular, in the light of the current emergency situation and of the commitment to

reinforce solidarity and responsibility, on the temporary and exceptional relocation over two years from Italy and Greece to other Member States of 40 000 persons in clear need of international protection. Member States should agree on binding quota for the distribution of such persons.

Amendment 4

Proposal for a decision Recital 5

Text proposed by the Commission

(5) In its resolution of 29 April 2015, the European Parliament reiterated the need for the Union to base its response to the latest tragedies in the Mediterranean on solidarity and fair sharing of responsibility and to step up its efforts in this area towards Member States which receive the highest number of refugees and applicants for international protection in either absolute or proportional terms.

Amendment

(5) In its resolution of 29 April 2015, the European Parliament reiterated the need for the Union to base its response to the latest tragedies in the Mediterranean on solidarity and fair sharing of responsibility and to step up its efforts in this area towards Member States which receive the highest number of refugees and applicants for international protection in either absolute or proportional terms *on the basis of the criteria for establishing the Member State responsible for examining an application for international protection in accordance with Regulation (EU) No 604/2013 of the European Parliament and of the Council^{1a}. The European Parliament called for binding quota for the distribution of asylum seekers among all the Member States.*

^{1a} *Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 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 (OJ L 180, 29.6.2013, p. 31).*

Amendment 5

Proposal for a decision

Recital 7

Text proposed by the Commission

(7) Among the Member States witnessing situations of particular pressure and in light of the recent tragic events in the Mediterranean, Italy and Greece in particular have experienced unprecedented flows of migrants, including applicants for international protection who are in clear need of international protection, arriving on their territories, generating a significant pressure on their migration and asylum systems.

Amendment

(7) Among the Member States witnessing situations of particular pressure and in light of the recent tragic events in the Mediterranean, Italy and Greece in particular have experienced unprecedented flows of migrants, including applicants for international protection who are in clear need of international protection, arriving on their territories, generating a significant pressure on their migration and asylum systems, ***thus indicating the negative impact of Regulation (EU) No 604/2013 for the first country of entry into the Union, which regrettably has not yet led to the suspension of that regulation or at least the removal of the reference to the first country of entry into the Union. However, other Member States within the Union are also experiencing large increases in the number asylum seekers they receive.***

Amendment 6

**Proposal for a decision
Recital 7 a (new)**

Text proposed by the Commission

Amendment

(7a) The expert forecast shows an increased migratory pressure in the short- and mid-term on the external maritime and land borders of the Union.

Amendment 7

**Proposal for a decision
Recital 8**

Text proposed by the Commission

Amendment

(8) According to data of the European Agency for the Management of Operational Cooperation at the External Borders (Frontex), the Central and Eastern Mediterranean route were the main areas

(8) According to data of the European Agency for the Management of Operational Cooperation at the External Borders (Frontex), the Central and Eastern Mediterranean route were the main areas

for irregular border crossing into the Union in 2014. In 2014, more than 170 000 migrants arrived in Italy alone in an irregular manner, representing an increase of 277% compared to 2013. A steady increase was also witnessed by Greece with more than 50 000 irregular migrants reaching the country, representing an increase of 153% compared to 2013. Statistics for the first months of 2015 confirm this clear trend in respect of Italy. In addition, Greece has faced in the first months of 2015 a sharp increase in the number of irregular border crossings, corresponding to **more than 50% of the total number of irregular border crossings in 2014 (almost 28 000 in the first four months of 2015** in comparison to a total number of almost 55 000 in 2014). A significant proportion of the total number of irregular migrants detected in these two regions included migrants of nationalities which, based on the Eurostat data, meet a high Union level recognition rate (in 2014, the Syrians and the Eritreans, for which the Union recognition rate is more than 75%, represented more than 40% of the irregular migrants in Italy and more than 50% of them in Greece). According to Eurostat, 30 505 Syrians were found to be irregularly present in Greece in 2014 compared to 8 220 in 2013.

for irregular border crossing into the Union in 2014. In 2014, more than 170 000 migrants arrived in Italy alone in an irregular manner, representing an increase of 277% compared to 2013, **including more than 26 100 children, of whom around 13 000 were unaccompanied minors, representing 7,6% of the total migrants**. A steady increase was also witnessed by Greece with more than 50 000 irregular migrants reaching the country, representing an increase of 153% compared to 2013. Statistics for the first months of 2015 confirm this clear trend in respect of Italy. **From January to June 2015, Italy witnessed a 5 % increase of irregular border crossings as compared to the same period in the previous year**. In addition, Greece has faced in the first months of 2015 a sharp increase in the number of irregular border crossings, corresponding to **a more than six-fold increase in comparison with the same period in the previous year and an increase of nearly 140% compared to the previous year as a whole (76 293 from January to June 2015, according to Frontex data**, in comparison to a total number of almost 55 000 in 2014). A significant proportion of the total number of irregular migrants detected in these two regions included migrants of nationalities which, based on the Eurostat data, meet a high Union level recognition rate (in 2014, the Syrians and the Eritreans, for which the Union recognition rate is more than 75%, represented more than 40% of the irregular migrants in Italy and more than 50% of them in Greece; **from January to June 2015 Syrians and Eritreans represented 30 % of arrivals to Italy and nearly 60 % to Greece**). According to Eurostat, 30 505 Syrians were found to be irregularly present in Greece in 2014 compared to 8 220 in 2013.

Amendment 8

Proposal for a decision

Recital 10

Text proposed by the Commission

(10) According to Frontex data, another important migration route into the Union in 2014 was the Western Balkan route with 43 357 irregular border crossings. ***However, the majority of migrants using the Balkan route are not prima facie in need of international protection, with 51% of the arrivals being made up only of Kosovars.***

Amendment

(10) According to Frontex data, another important migration route into the Union in 2014 was the Western Balkan route with 43 357 irregular border crossings. ***The number of irregular border crossings has increased dramatically in 2015. From January to June 2015, 67 444 migrants and refugees used the route through the borders of Turkey with Greece and Bulgaria and the land borders of Hungary. This amounts to an increase of 962 % compared to the same period in the previous year. The route is now increasingly also used by persons fleeing war and persecution. From January to June 2015, 17 955 refugees from Afghanistan, 13 225 refugees from Syria, 3 021 refugees from Iraq and 196 refugees from Eritrea entered the Union via this route.***

Amendment 9

**Proposal for a decision
Recital 13 a (new)**

Text proposed by the Commission

Amendment

(13a) There should be a rapid and full transposition and effective implementation of the Common European Asylum System by all participating Member States, thereby ensuring common Union standards, including reception conditions for asylum seekers and respect for fundamental rights, as provided for in existing Union law.

Amendment 10

**Proposal for a decision
Recital 15**

Text proposed by the Commission

Amendment

(15) If a Member State other than Italy or

(15) Taking into account the ongoing

Greece should be confronted with a similar emergency situation characterised by a sudden inflow of nationals of third countries, the Council, on a proposal from the Commission, and after consulting the European Parliament, may adopt provisional measures for the benefit of the Member State concerned, in line with Article 78(3) of the Treaty. Such measures may include, where appropriate, a suspension of the obligations of that Member State provided for in this Decision.

instability and conflicts in the immediate neighbourhood of the Union and the changing nature of migratory flows, if a Member State other than Italy or Greece should be confronted with a similar emergency situation characterised by a sudden inflow of nationals of third countries, the Council, on a proposal from the Commission, and after consulting the European Parliament, may adopt provisional measures for the benefit of the Member State concerned, in line with Article 78(3) of the Treaty. Such measures may include, where appropriate, a suspension of the obligations of that Member State provided for in this Decision.

Amendment 11

Proposal for a decision Recital 17

Text proposed by the Commission

(17) The measures foreseen in this Decision entail a temporary derogation from the criterion laid down in Article 13(1) of Regulation (EU) No 604/2013 *of the European Parliament and of the Council*¹ and the procedural steps, including the time limits, laid down in Articles 21, 22 and 29 of that Regulation.

Amendment

(17) The measures foreseen in this Decision entail a temporary derogation from the criterion laid down in Article 13(1) of Regulation (EU) No 604/2013 and the procedural steps, including the time limits, laid down in Articles 21, 22 and 29 of that Regulation. ***Relocation measures should not prevent Member States from making full use of Regulation (EU) No 604/2013, including a proactive and efficient use of all criteria, such as family reunification, special protection of unaccompanied minors, and the discretionary clause on humanitarian grounds.***

¹ ***Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 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 (OJ L 180, 29.6.2013, p.31).

Amendment 12

Proposal for a decision

Recital 18

Text proposed by the Commission

(18) A choice had to be made in respect of the criteria to be applied when deciding which and how many applicants are to be relocated from Italy and Greece. A clear and workable system is envisaged based on a threshold of the average rate at Union level of decisions granting international protection in the procedures at first instance as defined by Eurostat out of the total number at Union level of decisions on asylum applications for international protection taken at first instance, based on the latest available statistics. On the one hand, this threshold would have to ensure, to the maximum extent possible, that all applicants who are most likely in need of international protection would be in a position to fully and swiftly enjoy their protection rights in the Member State of relocation. On the other hand, it would prevent, to the maximum extent possible, applicants who are likely to receive a negative decision to their application from being relocated to another Member State and therefore prolong unduly their stay in the Union. Based on Eurostat data for 2014 first instance decisions, a threshold of 75%, which corresponds in that year to decisions on applications for Syrians and Eritreans, should be used in this Decision.

Amendment 13

Proposal for a decision

Amendment

(18) A choice had to be made in respect of the criteria to be applied when deciding which and how many applicants are to be relocated from Italy and Greece. A clear and workable system is envisaged based on a threshold of the average rate at Union level of decisions granting international protection in the procedures at first instance as defined by Eurostat out of the total number at Union level of decisions on asylum applications for international protection taken at first instance, based on the latest available statistics. On the one hand, this threshold would have to ensure, to the maximum extent possible, that all applicants who are most likely in need of international protection would be in a position to fully and swiftly enjoy their protection rights in the Member State of relocation. On the other hand, it would prevent, to the maximum extent possible, applicants who are likely to receive a negative decision to their application from being relocated to another Member State and therefore prolong unduly their stay in the Union. Based on Eurostat data for 2014 first instance decisions, a threshold of 75%, which corresponds in that year to decisions on applications for Syrians and Eritreans, should be used in this Decision. ***In order to take into account the changing nature of migratory flows, the targeted group of beneficiaries for relocation should be assessed on a quarterly basis.***

Recital 19

Text proposed by the Commission

(19) The provisional measures are intended to relieve the significant asylum pressure from Italy and Greece, in particular by relocating an important number of applicants in clear need of international protection who have arrived in the territory of Italy and Greece following the date on which this Decision becomes applicable. Based on the overall number of third-country nationals who have entered irregularly Italy and Greece in 2014 and the number of those who are in clear need of international protection, a total of 40 000 applicants in clear need of international protection should be relocated from Italy and Greece. This number corresponds to approximately 40% of the total number of third country nationals in clear need of international protection who have entered irregularly in Italy and Greece in 2014. Thus, the relocation measure proposed in this Decision constitutes fair **burden** sharing between Italy and Greece on the one hand and the other Member States on the other hand. Based on the same overall available figures in 2014 and in the first four months of 2015 in Italy compared to Greece, 60% of these applicants should be relocated from Italy and 40% from Greece.

Amendment

(19) The provisional **emergency** measures are intended **to set up a fair and equitable relocation mechanism**, to relieve the significant asylum pressure from Italy and Greece, in particular by relocating an important number of applicants in clear need of international protection who have arrived in the territory of Italy and Greece following the date on which this Decision becomes applicable. Based on the overall number of third-country nationals who have entered irregularly Italy and Greece in 2014 and the number of those who are in clear need of international protection, a total of 40 000 applicants in clear need of international protection should be relocated from Italy and Greece. This number corresponds to approximately 40% of the total number of third country nationals in clear need of international protection who have entered irregularly in Italy and Greece in 2014. Thus, the relocation measure proposed in this Decision constitutes **fair sharing of responsibility** between Italy and Greece on the one hand and the other Member States on the other hand. Based on the same overall available figures in 2014 and in the first four months of 2015 in Italy compared to Greece, 60% of these applicants should be relocated from Italy and 40% from Greece. ***Within six months after the date of entry into force of this Decision, the Commission should evaluate the share of persons to be relocated from Italy and Greece, based on latest available data, with a view to adapting it to changing refugee flows. The emergency relocation mechanism is not a solution to the long-term challenge of asylum pressure on the external borders of the Union, but, rather, a test case with a view to the upcoming legislative proposal on a permanent emergency relocation scheme based on Article 78(2) of the Treaty and is therefore initially restricted to a total of 40 000 applicants. However, a further***

increase of relocation places should be considered, if necessary, to adapt to rapidly changing refugee flows and trends in the course of the application of this Decision. Any proposal for a permanent emergency relocation mechanism must be based on a more substantial contribution to solidarity and responsibility-sharing among Member States, including a significant increase in the number of available relocation places to adapt to rapidly changing migratory flows and trends. It should be built on clearly defined criteria, including on sudden inflow of nationals of third countries and exceptional asylum pressure, allowing for its triggering on the basis of transparent and objective indicators.

Amendment 14

Proposal for a decision Recital 20 a (new)

Text proposed by the Commission

Amendment

(20a) When drafting the permanent mechanism for relocation under Article 78(2) of the Treaty, the Commission should include the territory of a Member State as a criterion for determining the distribution key of migrants.

Amendment 15

Proposal for a decision Recital 21

Text proposed by the Commission

Amendment

(21) The Asylum, Migration and Integration Fund (AMIF) set up by Regulation (EU) No 516/2014 of the European Parliament and of the Council¹ provides support to ***burden-sharing*** operations agreed between Member States and is open to new policy developments in that field. Article 7(2) of Regulation (EU) No 516/2014 foresees the possibility for Member States to implement actions

(21) The Asylum, Migration and Integration Fund (AMIF) set up by Regulation (EU) No 516/2014 of the European Parliament and of the Council¹ provides support to ***the fair sharing of responsibility*** operations agreed between Member States and is open to new policy developments in that field. Article 7(2) of Regulation (EU) No 516/2014 foresees the possibility for Member States to implement

related to the transfer of applicants for international protection as part of their national programmes, while Article 18 of Regulation (EU) No 516/2014 foresees the possibility of a lump sum of EUR 6 000 for the transfer of beneficiaries of international protection from another Member State.

¹ Regulation (EU) No 516/2014 of the European Parliament and of the Council of 16 April 2014 establishing the Asylum, Migration and Integration Fund, amending Council Decision 2008/381/EC and repealing Decisions No 573/2007/EC and No 575/2007/EC of the European Parliament and of the Council and Council Decision 2007/435/EC (OJ L 150, 20.5.2014, p. 168).

Amendment 16

Proposal for a decision Recital 21 a (new)

Text proposed by the Commission

Amendment 17

Proposal for a decision Recital 25

Text proposed by the Commission

(25) When deciding which applicants in clear need of international protection should be relocated from Italy and Greece, priority should be given to vulnerable applicants within the meaning of **Article 22** of Directive 2013/33/EU of the European Parliament and of the Council¹⁰. In this respect, special needs of applicants, including health, should be of primary concern. The best interests of the child should always be a primary consideration.

actions related to the transfer of applicants for international protection as part of their national programmes, while Article 18 of Regulation (EU) No 516/2014 foresees the possibility of a lump sum of EUR 6 000 for the transfer of beneficiaries of international protection from another Member State

¹ Regulation (EU) No 516/2014 of the European Parliament and of the Council of 16 April 2014 establishing the Asylum, Migration and Integration Fund, amending Council Decision 2008/381/EC and repealing Decisions No 573/2007/EC and No 575/2007/EC of the European Parliament and of the Council and Council Decision 2007/435/EC (OJ L 150, 20.5.2014, p. 168).

Amendment

(21a) The Commission should control the spending of the sum of EUR 6 000 for the relocation of each applicant.

Amendment

(25) When deciding which applicants in clear need of international protection should be relocated from Italy and Greece, priority should be given to vulnerable applicants, ***- and among those, special attention should be given to unaccompanied minors -*** within the meaning of **Articles 21 and 22** of Directive 2013/33/EU of the European Parliament and of the Council¹⁰. ***In order to take into account the specific situation of vulnerable persons, Member States are***

required under Directive 2013/33/EU and Directive 2013/32/EU of the European Parliament and of the Council^{1a} to conduct an individual evaluation of the vulnerabilities of individuals in terms of their special reception and procedural needs. Therefore, Member States must take active steps to assess the individual needs of asylum seekers and cannot rely solely on their self-identification to effectively guarantee their rights under Union law. In this respect, special needs of applicants, including health, should be of primary concern. The best interests of the child should always be a primary consideration in all procedures put in place following this Decision and the key principles established in judgment of the Court of Justice of 6 June 2013 in Case C-648/11^{1b} should never be put at stake.

¹⁰ Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast) (OJ L 180, 29.6.2013, p. 96).

¹⁰ Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast) (OJ L 180, 29.6.2013, p. 96).

^{1a} *Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (OJ L 180, 29.6.2013, p. 60).*

^{1b} *Judgment of the Court of Justice of 6 June 2013, MA and others, C-648/11, ECLI:EU:C:2013:367.*

Amendment 18

Proposal for a decision Recital 26

Text proposed by the Commission

(26) In addition, in order to decide which specific Member State should be the Member State of relocation, specific account should be given to the specific qualifications of the applicants concerned

Amendment

(26) In addition, in order to decide which specific Member State should be the Member State of relocation, specific account should be given to the *preferences and* specific qualifications of the applicants

which could facilitate their integration into the Member State of relocation, such as their language skills. In the case of particularly vulnerable applicants, consideration should be given to the capacity of the Member State of relocation to provide adequate support to those applicants.

concerned which could facilitate their integration into the Member State of relocation, such as their language skills, *family ties beyond the definition of family members in Regulation (EU) No 604/2013, social relations, cultural ties, previous stay in a Member State, previous study and previous work experience with a company or an organisation of a specific Member State as well as specific qualifications that could be relevant for the integration of applicants into the labour market of the Member State of relocation. Member States should therefore facilitate the effective recognition of diplomas, qualifications and skills of applicants. In addition, Member States may inform applicants of their labour market opportunities.* In the case of particularly vulnerable applicants, consideration should be given to the capacity of the Member State of relocation to provide adequate support to those applicants. *While applicants do not have a right to choose the Member State of their relocation, their needs, preferences and specific qualification should be taken into account to the extent possible.*

Amendment 19

Proposal for a decision Recital 26 a (new)

Text proposed by the Commission

Amendment

(26a) Based on the lessons learned from the pilot project on relocation from Malta (EUREMA), expectations and preferences should be taken into account to the extent possible. As an initial step, applicants should be given the opportunity to express their preferences. They should rank Member States by order of preference and support their preferences by elements such as family ties, social ties and cultural ties such as language skills, previous stay, previous studies and previous work experience. This should take place in the course of the initial processing. As a

second step, the respective Member States should be informed about the applicants' preferences. They should then be given the opportunity to indicate their preferences for applicants among those applicants who had expressed their preference for the Member State concerned. Member States should support their preferences by aspects such as family, social and cultural ties. Liaison officers appointed by Member States could facilitate the procedure by conducting interviews with the respective applicants. Applicants should also have the opportunity to consult other actors such as non-governmental organisations, the United Nations High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IOM). Finally, Italy and Greece, with the assistance of EASO, should take a decision to relocate each of the applicants to a specific Member State by taking the preferences into account to the extent possible. The UNHCR should be consulted on their best practices developed in resettlement including on the management of preferences and specific qualifications.

Amendment 20

**Proposal for a decision
Recital 26 b (new)**

Text proposed by the Commission

Amendment

(26b) The principle of non-discrimination laid down in Article 10 of the Treaty should be fully respected during the whole relocation procedure. Discrimination on grounds of sex, age, ethnicity, disabilities and religion is a clear infringement of the Treaty.

Amendment 21

Proposal for a decision Recital 28

Text proposed by the Commission

(28) The legal and procedural safeguards set out in Regulation (EU) No 604/2013 remain applicable in respect of applicants covered by this Decision. In addition, applicants should be informed of the relocation procedure set out in this Decision and notified with the relocation decision. ***Considering that an applicant does not have the right under EU law to choose the Member State responsible for his/her application, the applicant, should have the right to an effective remedy against the relocation decision in line with Regulation (EU) No 604/2013, only in view of ensuring respect of his/her fundamental rights.***

Amendment 22

Proposal for a decision Recital 30

Text proposed by the Commission

(30) Measures should be taken in order to avoid secondary movements of relocated persons from the Member State of relocation to other Member States. ***In particular***, applicants should be informed of the consequences of onward movement within the Member States and of the fact that, if the Member State of relocation grants them international protection, in principle, they are only entitled to the rights attached to international protection in that Member State.

Amendment

(28) The legal and procedural safeguards set out in Regulation (EU) No 604/2013 remain applicable in respect of applicants covered by this Decision. In addition, applicants should be informed of the relocation procedure set out in this Decision and notified with the relocation decision. The applicant should have the right to an effective remedy against the relocation decision in line with Regulation (EU) No 604/2013 ***and Article 47 of the Charter of Fundamental Rights of the European Union.***

Amendment

(30) Measures should be taken in order to avoid secondary movements of relocated persons from the Member State of relocation to other Member States. ***Taking the preferences of applicants, including family ties beyond the provisions regarding family in Regulation (EU) No 604/2013, social and cultural ties, as much as possible into account is a straightforward measure for applicants to develop a sense of belonging to the Member State of relocation. Applicants should be provided with all necessary information, in a language they understand or are reasonably supposed to understand, about their destination and, where their preference cannot be fully taken into account, of the reasons for this. To further avoid secondary movements,***

applicants should be informed of the consequences of onward movement within the Member States *as provided for in Article 4 of Regulation (EU) No 604/2013* and of the fact that, if the Member State of relocation grants them international protection, in principle, they are only entitled to the rights attached to international protection in that Member State.

Amendment 23

Proposal for a decision Recital 30 a (new)

Text proposed by the Commission

Amendment

(30a) Consent of applicants or beneficiaries of international protection to relocation is an established principle in Union secondary law, enshrined in Article 7(2) of Regulation (EU) No 516/2014 and, by analogy, in Article 5 of Regulation (EU) No 439/2010 of the European Parliament and of the Council^{1a} and in Article 17(2) of Regulation (EU) No 604/2013, whereas on the basis of Article 78(3) of the Treaty, derogations from Union law are possible under very restricted conditions. The effective implementation of the emergency relocation mechanism needs to be ensured, whereas consent is of particular importance to prevent secondary movement and should therefore, in principle, be required before relocation. Where a person does not consent, he or she should not, in principle, be relocated, but another person should be offered that opportunity.

^{1a} *Regulation (EU) No 439/2010 of the European Parliament and of the Council of 19 May 2010 establishing a European Asylum Support Office (OJ L 132, 29.5.2010, p. 11).*

Amendment 24

Proposal for a decision Article 1

Text proposed by the Commission

This Decision establishes provisional measures in the area of international protection for the benefit of Italy and Greece in view of enabling them to cope with an emergency situation characterised by a sudden inflow of nationals of third countries in those Member States.

Amendment

This Decision establishes **binding** provisional **emergency** measures in the area of international protection for the benefit of Italy and Greece in view of enabling them to cope with an emergency situation characterised by a sudden inflow of nationals of third countries **or stateless persons** in those Member States.

Amendment 25

Proposal for a decision Article 2 – paragraph 1 – point b

Text proposed by the Commission

(b) ‘applicant’ means a third-country national or a stateless person who has made an application for international protection in respect of which a final decision has not yet been taken;

Amendment

(b) ‘applicant’ means a third-country national or a stateless person who has made an application for international protection in respect of which a final decision has not yet been taken **as referred to point (i) of Article 2 of Directive 2011/95/EU**;

Amendment 26

Proposal for a decision Article 2 – paragraph 1 – point d

Text proposed by the Commission

(d) ‘**family members**’ means **family members as defined in point (g) of Article 2 of Regulation (EU) No 604/2013 of the European Parliament and of the Council**;

Amendment

(d) ‘**close relatives**’ means **the spouse, children, parents, persons exercising parental authority, grandparents and grandchildren**;

(Horizontal amendment. Applies throughout the text of the Commission proposal.)

Amendment 27

Proposal for a decision

Article 2 – paragraph 1 – point f a (new)

Text proposed by the Commission

Amendment

(fa) ‘preference’ means the preference expressed by an applicant for a certain Member State or the preference expressed by a Member State for a certain applicant supported by elements such as family ties beyond the definition of family members as defined in point (g) of Article 2 of Regulation (EU) No 604/2013, social ties such as ties to ethnic and cultural communities, and cultural ties to the preferred Member State such as language skills, former stay in a Member State or former study or work relations with companies or organisations of that Member State.

Amendment 28

Proposal for a decision

Article 3 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Given the changing nature of migratory flows, the targeted group of beneficiaries for relocation should be assessed on a quarterly basis.

Amendment 47

Proposal for a decision

Article 4

Text proposed by the Commission

Amendment

-1. In order to relieve the significant asylum pressure from Italy and Greece, but also to act as an important test case with a view to the upcoming legislative proposal on a permanent emergency relocation scheme based on Article 78(2) of the Treaty, an initial total of 110 000 applicants shall be relocated from Italy

and Greece. A further increase shall be considered, if necessary, to adapt to rapidly changing refugee flows and trends in the course of the application of this Decision.

1. **24 000** applicants shall be relocated from Italy to the territory of the other Member States *as set out in Annex I*.
2. **16 000** applicants shall be relocated from Greece to the territory of the other Member States *as set out in Annex II*.

1. **Initially, 40 000** applicants shall be relocated from Italy to the territory of the other Member States.

2. **Initially, 70 000** applicants shall be relocated from Greece to the territory of the other Member States.

2a. By [six months after the entry into force of this Decision] the Commission shall evaluate the respective share of persons to be relocated from Italy and Greece with a view to adapting it to changing refugee flows, on basis of the latest available Frontex data.

Amendment 30

Proposal for a decision Article 4 a (new)

Text proposed by the Commission

Amendment

Article 4a

Consent

The consent of the applicant to his or her relocation should, in principle, be required.

Amendment 31

Proposal for a decision Article 5 – paragraph 2

Text proposed by the Commission

Amendment

2. Italy and Greece shall, at regular intervals during the period of application of this Decision, with the assistance of EASO and, *where applicable, of Member States' liaison officers referred to in paragraph 8*, identify the individual applicants to be relocated to the other Member States and communicate to the contact points of those Member States and to EASO the number of

2. Italy and Greece shall, at regular intervals during the period of application of this Decision, with the assistance of EASO and *other relevant agencies*, identify the individual applicants to be relocated to the other Member States and communicate to the contact points of those Member States and to EASO the number of applicants that can be relocated. Priority shall be given for

applicants that can be relocated. Priority shall be given for that purpose to vulnerable applicants within the meaning of *Article 22* of Directive 2013/33/EU.

that purpose to vulnerable applicants within the meaning of *Articles 21 and 22* of Directive 2013/33/EU, ***and particular attention should be given to unaccompanied minors.***

Amendment 32

Proposal for a decision Article 5 – paragraph 3

Text proposed by the Commission

3. As soon as possible after receiving the information referred to in paragraph 2, Member States shall indicate the number of applicants who can be relocated immediately to their territory and any other relevant information, within the numbers set out in Annex I and Annex II respectively.

Amendment

3. As soon as possible after receiving the information referred to in paragraph 2, Member States shall ***provide information about the available capacity for reception of migrants and*** indicate the number of applicants who can be relocated immediately to their territory and any other relevant information, within the numbers set out in Annex I and Annex II respectively.

Amendment 33

Proposal for a decision Article 5 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Italy and Greece shall, with the assistance of EASO, provide applicants with information, in a language that they understand or are reasonably supposed to understand, about the Member States involved in the emergency relocation. Applicants shall also have access to information provided by other actors such as non-governmental organisations, the UNHCR and IOM. During the initial processing applicants shall be asked to rank Member States by order of preferences and to support their preference.

Amendments 34 and 48

Proposal for a decision

Article 5 – paragraph 5

Text proposed by the Commission

5. Applicants whose fingerprints are required to be taken pursuant to the obligations set out in Article 9 of Regulation (EU) No 603/2013 may only be relocated if their fingerprints have been taken.

Amendment

5. Applicants whose fingerprints are required to be taken ***and transmitted*** pursuant to the obligations set out in Article 9 of Regulation (EU) No 603/2013 may only be relocated if their fingerprints have been taken, ***in full respect of their fundamental rights without recourse to any coercion or detention measure.***

Amendment 35

Proposal for a decision Article 5 – paragraph 8

Text proposed by the Commission

8. For the implementation of all aspects of the relocation procedure described in this Article Member States may decide to send to Italy and Greece liaison officers.

Amendment

deleted

Amendment 36

Proposal for a decision Article 6 – paragraph 4

Text proposed by the Commission

4. When the decision to relocate an applicant has been taken and before the actual relocation, Italy and Greece shall notify the person concerned of the decision to relocate him in writing. That decision shall specify the Member State of relocation.

Amendment

4. When the decision to relocate an applicant has been taken and before the actual relocation, Italy and Greece, ***with the assistance of EASO and other actors such as liaison officers, if available,*** shall ***inform the person concerned of the Member State of relocation in a comprehensive manner and in a language that the applicant understands or is reasonably supposed to understand or, if the applicant's preferences are not taken into account, of the reasons for that decision.*** ***Italy and Greece shall also*** notify the person concerned of the decision to relocate him in writing. That decision shall specify the Member State of relocation.

Amendment 37

Proposal for a decision

Article 7 – paragraph 1 – point b

Text proposed by the Commission

(b) the initial processing of the applications;

Amendment

(b) the initial processing of the applications, ***including the identification of vulnerabilities and preferences, for the purpose of identifying potential applicants for relocation and the screening of applicants, including their clear identification, fingerprinting and registration of the applications for international protection;***

Amendment 38

Proposal for a decision

Article 7 – paragraph 1 – point d

Text proposed by the Commission

(d) the implementation of the transfer of the applicants to the Member State of relocation.

Amendment

(d) the implementation of the transfer of the applicants to the Member State of relocation. ***The transfer costs to the Member State of relocation should not be an additional burden to Greece and Italy.***

Amendment 39

Proposal for a decision

Article 8 – paragraph 2

Text proposed by the Commission

2. If Italy or Greece does not comply with the obligation referred to in paragraph 1, the Commission may decide to suspend this Decision with regard to that Member State for a period of up to three months. The Commission may decide once to extend such suspension for a further period of up to three months.

Amendment

2. If Italy or Greece does not comply with the obligation referred to in paragraph 1, the Commission may decide, ***having given the Member State concerned the opportunity to present its views,*** to suspend this Decision with regard to that Member State for a period of up to three months. The Commission may decide once to extend such suspension for a further period of up to three months.

Amendment 40

Proposal for a decision Article 9

Text proposed by the Commission

In the event of an emergency situation characterised by a sudden inflow of nationals of third countries in a Member State of relocation, the Council, on a proposal from the Commission and after consulting the European Parliament, may adopt provisional measures for the benefit of the Member State concerned, pursuant to Article 78(3) of the Treaty. Such measures may include, where appropriate, a suspension of the obligations of that Member State provided for in this Decision.

Amendment

In the event of an emergency situation characterised by a sudden inflow of nationals of third countries in a Member State of relocation, the Council, on a proposal from the Commission and after consulting the European Parliament, may adopt provisional measures for the benefit of the Member State concerned, pursuant to Article 78(3) of the Treaty. Such measures may ***in addition*** include, where appropriate, a suspension of the obligations of that Member State provided for in this Decision.

Amendment 41

Proposal for a decision Article 11

Text proposed by the Commission

Italy and Greece shall report to the Council and the Commission on the implementation of this Decision, including on the roadmaps referred to in Article 8, every three months.

Amendment

Italy and Greece shall report to the Council and the Commission on the implementation ***and the proper use of the funds received in the framework*** of this Decision, including on the roadmaps referred to in Article 8, every three months.

Amendment 42

Proposal for a decision Article 11 a (new)

Text proposed by the Commission

Amendment

Article 11a

Evaluation

By July 2016 the Commission shall submit to the European Parliament and to the Council a mid-term evaluation on the application of this Decision and, where appropriate, shall propose the necessary recommendations for a permanent

relocation mechanism, including in perspective of the announced Dublin fitness check.

By... the Commission shall submit to the European Parliament and to the Council a final evaluation report on the application of this Decision.*

Member States shall submit to the Commission all information appropriate for the preparation of that report in due time.

** OJ: please insert the date: 30 months after the date of entry into force of this Decision.*

Amendment 43

Proposal for a decision Annex II a (new)

Text proposed by the Commission

Amendment

Annex IIa

The Relocation Procedure

Procedure as envisaged in the Commission proposal; additional procedural steps inserted by the European Parliament are underlined

1 – Initial processing of persons seeking international protection

- Identification of persons for which another Member State is (or should be) responsible under the Dublin Regulation

→ Dublin transfers

- Identification of vulnerable applicants

- Identification of close relatives for joint relocation

- Identification of the preferences of applicants for certain Member States

↓

2 – Selection of applicants for relocation

- Italy/Greece determine the applicants to be relocated.

- They inform Member States of the number of places needed as well as of the preferences of the applicants

↓

3 – Involvement of Member States

- Member States inform Italy/Greece of the number of available relocation places

- Liaison officers can conduct interviews with applicants who expressed a preference for their Member State

- Member States indicate their preferences for applicants

↓

4 – Relocation decision

- Italy/Greece decide which applicant is to be relocated to which Member State by taking the preferences of applicants and Member States into account

↓

5 – Information and consent

- Applicants are informed comprehensively about their Member State of relocation

- In principle, applicants give their consent to be relocated to that Member State

↓

6 – Transfer

Transfer of applicants to the Member State of relocation within one month

ANNEX TO THE LEGISLATIVE RESOLUTION

STATEMENT BY THE EUROPEAN PARLIAMENT

The European Parliament, in light of the need to adopt immediate measures for the benefit of Member States confronted with an emergency situation characterised by a sudden inflow of nationals of third countries, has agreed to the legal basis of Article 78(3) TFEU as proposed by Commission for the Council Decision establishing provisional measures in the area of international protection for the benefit of Italy and Greece. Nevertheless, the European Parliament can accept Article 78 (3) TFEU as a legal basis only as an emergency measure, which will be followed by a proper legislative proposal to structurally deal with any future emergency situations. It insists that Article 78 (2) TFEU requiring the ordinary legislative procedure for measures for determining which Member State is responsible for considering an application for international protection jointly with Article 80, second sentence TFEU giving in its provisions effect to the principle of solidarity as expressed in Article 80, first sentence, is the correct legal basis. The European Parliament further underlines the fact that the adoption of this Decision is strictly 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. The European Parliament urges the Commission to table a legislative proposal on a permanent relocation scheme based on Article 78(2) and Article 80 by the end of 2015, as announced by the Commission in its European Agenda on Migration. The European Parliament reserves its right to prepare a legislative own-initiative report in case the Commission does not come forward with such a legislative proposal in due time.