



2020/0277(COD)

23.11.2021

*****I**

DRAFT REPORT

on the proposal for a regulation of the European Parliament and of the Council
addressing situations of crisis in the field of migration and asylum
(COM(2020)0613 – C9-0308/2020 – 2020/0277(COD))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Juan Fernando López Aguilar

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 regulation of the European Parliament and of the Council
addressing situations of crisis in the field of migration and asylum
(COM(2020)0613 – C9-0308/2020 – 2020/0277(COD))**

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2020)0613),
 - having regard to Article 294(2) and Article 78(2)(c),(d) and (e) and Article 79(2)(c) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0308/2020),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the reasoned opinions submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the Italian Senate and the Hungarian Parliament asserting that the draft legislative act does not comply with the principle of subsidiarity,
 - having regard to the opinion of the European Economic and Social Committee of 30 April 2021¹,
 - having regard to the opinion of the Committee of the Regions of 19 March 2021²,
 - having regard to Rules 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A9-0000/2021),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

¹ OJ C 155, 30.4.2021, p. 58.

² OJ C 175, 7.5.2021, p.32.

Proposal for a regulation
Title

Text proposed by the Commission

Draft report on the proposal for a regulation of the European Parliament and of the Council addressing situations of crisis **and force majeure** in the field of migration and asylum

Amendment

Draft report on the proposal for a regulation of the European Parliament and of the Council addressing situations of crisis in the field of migration and asylum

Or. en

Amendment 2

Proposal for a regulation
Recital 3

Text proposed by the Commission

(3) The comprehensive approach should bring together policies in the areas of asylum, migration management, returns, external border protection and partnership with relevant third countries, recognising that the effectiveness of the overall approach depends on all components being jointly addressed and in an integrated manner. The comprehensive approach should ensure that the Union has at its disposal specific rules to effectively manage migration **including** the triggering of a **compulsory** solidarity mechanism and that all the necessary measures are put in place to prevent crisis to happen.

Amendment

(3) The comprehensive approach should bring together policies in the areas of asylum, migration management, returns, external border protection and partnership with relevant third countries, recognising that the effectiveness of the overall approach depends on all components being jointly addressed and in an integrated manner. The comprehensive approach should ensure that the Union has at its disposal specific rules to effectively manage migration, **in particular** the triggering of a **mandatory** solidarity mechanism and that all the necessary measures are put in place to prevent crisis to happen.

Or. en

Amendment 3

Proposal for a regulation
Recital 4

Text proposed by the Commission

(4) Notwithstanding the putting in place of the necessary preventive measures, it cannot be excluded that a situation of crisis **or** force majeure in the field of migration and asylum arises due to circumstances beyond the control of the Union and its Member States.

Amendment

(4) Notwithstanding the putting in place of the necessary preventive measures, it cannot be excluded that a situation of crisis, **including** force majeure in the field of migration and asylum arises due to circumstances beyond the control of the Union and its Member States.

Or. en

Amendment 4

Proposal for a regulation
Recital 5

Text proposed by the Commission

(5) This Regulation should contribute to and complete the comprehensive approach by setting out the specific procedures and mechanisms in the field of international protection **and return** that should apply in the exceptional circumstances of a situation of crisis. It should ensure, in particular, the effective application of the principle of solidarity and fair sharing of responsibility **and the adaptation of the relevant rules on asylum and return procedures**, so that the Member States and the Union have the necessary tools at their disposal including sufficient time to carry out **those** procedures.

Amendment

(5) This Regulation should contribute to and complete the comprehensive approach by setting out the specific procedures and mechanisms in the field of international protection that should apply in the exceptional circumstances of a situation of crisis. It should ensure, in particular, the effective application of the principle of solidarity and fair sharing of responsibility, **including the granting of prima facie international protection**, so that the Member States and the Union have the necessary tools at their disposal including sufficient time to carry out **all the different** procedures.

Or. en

Amendment 5

Proposal for a regulation
Recital 6

Text proposed by the Commission

(6) A mass influx of persons crossing

Amendment

(6) A mass influx of persons crossing

the border irregularly **and** within a short period of time may lead to a situation of crisis in a particular Member State. **That** may also have consequences for the functioning of the asylum and migration system, not only in **that** Member State **but** in the Union as a whole, due to **unauthorised movements and** the lack of capacity **in the** Member State of first entry to process the applications for international protection **of such third-country nationals**. It is necessary to **lay down** specific **rules and** mechanisms **that should enable effective action to address such situations**.

the border irregularly, **or following evacuation programmes**, within a short period of time may lead to a situation of crisis in a particular Member State. **Such a situation** may also have consequences for the functioning of the asylum and migration system, not only in **the** Member State **concerned, but also** in the Union as a whole, **including**, due to the lack of capacity **any** Member State of first entry **would face in a similar situation**, to process the applications for international protection. **An asylum, reception, or return system is non-functional when it is unable to cope with a situation of crisis without adverse effects on the interests of the persons arriving or on other persons with pending applications for international protection. A situation of crisis might also be triggered where exceptional circumstances beyond the control of a Member State jeopardise the feasibility for the Member State concerned to meet its obligations under Union asylum and migration law.** It is necessary to **provide for** specific mechanisms **to avoid serious consequences for the functioning of the Common European Asylum System or the Common Framework as set out in Regulation (EU) XXX/XXX [Asylum and Migration Management Regulation]** in particular for a mandatory relocation mechanism, with a view to **balance efforts between Member States**.

Or. en

Amendment 6

Proposal for a regulation Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) A situation of crisis can also be a result of evacuation programmes. Such

programmes can include different evacuation measures, such as the granting of humanitarian visas; the setting up of humanitarian corridors or direct evacuation transfers. Such evacuation programmes should be part of urgent responses to unpredicted emergencies.

Or. en

Amendment 7

Proposal for a regulation Recital 7

Text proposed by the Commission

(7) In ***addition to*** situations of crisis, Member States may be faced with ***abnormal and unforeseeable circumstances outside their control, the consequences of which could not have been avoided in spite of the exercise of all due care. Such situations of force majeure could make it impossible to respect the time limits set by Regulations (EU) XXX/XXX [Asylum Procedures Regulation] and (EU) XXX/XXX [Asylum and Migration Management] for registering applications for international protection or carrying out the procedures for determining the Member State responsible for examining an application for international protection.*** In order to ensure that the common asylum system continues functioning in an efficient and fair manner, while guaranteeing a timely examination of international protection needs and legal certainty, ***longer time limits for the registration of applications and for the procedural steps required for determining responsibility and transferring applicants to the responsible Member State should apply in such situations. Member States faced with a situation of force majeure should also be able to implement the solidarity measures that they have to take pursuant to the***

Amendment

(7) In certain situations of crisis, Member States may be faced with ***force majeure, referenced in international and European law, as a situation due to the occurrence of an irresistible force or of an unforeseen event beyond its control, making it materially impossible in the circumstances to perform its obligations under Union asylum and migration law^{1a}. Force majeure may include natural disasters such as severe fires, earthquakes, terrorist attacks, wars, military or civil armed conflicts, and uprisings which might lead to a situation of crisis.*** In order to ensure that the common asylum system continues functioning in an efficient and fair manner, while guaranteeing a timely examination of international protection needs and legal certainty, ***the triggering of a mandatory relocation mechanism also applies in these exceptional circumstances.***

solidarity mechanism set out in this Regulation and in Regulation (EU) XXX/XXX [Asylum and Migration Management] within an extended time frame, where necessary.

1a

https://legal.un.org/ilc/texts/instruments/english/commentaries/9_6_2001.pdf

Or. en

Amendment 8

Proposal for a regulation Recital 7 a (new)

Text proposed by the Commission

Amendment

(7a) *A situation of crisis should allow for the triggering of the full set of measures provided for in this Regulation. The imminent risk of a situation of crisis should not be neglected, as responding in time in the case of imminent risk, might avoid that a real situation of crisis eventually takes place. At the stage of an imminent risk of a situation of crisis, the mandatory relocation mechanism should be available as a preventive tool.*

Or. en

Amendment 9

Proposal for a regulation Recital 8

Text proposed by the Commission

Amendment

(8) *The solidarity mechanism for situations of migratory pressure as set out in Regulation (EU) XXX/XXX [Asylum and Migration Management] should be*

deleted

adapted to the specific needs of situations of crisis by extending the personal scope of the solidarity measures provided for in that Regulation and setting shorter deadlines.

Or. en

Amendment 10

Proposal for a regulation Recital 10

Text proposed by the Commission

(10) In order to quickly help alleviate the pressure faced by a Member State in a situation of crisis, the scope of relocation should include all categories of applicants for international protection, ***including persons granted immediate protection***, as well as beneficiaries of international protection ***and irregular migrants***. ***Furthermore, a Member State that provides return sponsorship should transfer the illegally staying third-country national from the benefitting Member State if the person concerned does not return or is not removed within four months, instead of eight months as provided for by Regulation (EU) XXX/XXX [Asylum and Migration Management].***

Amendment

(10) In order to quickly help alleviate the pressure faced by a Member State in a situation of crisis, the scope of relocation should include all categories of applicants for international protection as well as beneficiaries of international protection, ***including persons granted prima facie international protection***.

Or. en

Amendment 11

Proposal for a regulation Recital 11

Text proposed by the Commission

(11) ***The procedural rules set out in Regulation (EU) XXX/XXX [Asylum and***

Amendment

deleted

Migration Management] for carrying out relocation and return sponsorship should be applied for the purpose of ensuring the proper implementation of the solidarity measures in a situation of crisis, although they should be adjusted in order to take into account the gravity and urgency of that situation.

Or. en

Amendment 12

Proposal for a regulation

Recital 12

Text proposed by the Commission

(12) In situations of crisis, Member States might need a wider set of measures in order to manage a mass influx of third-country nationals in an orderly fashion *and contain unauthorised movements*. Such measures should *include the application of an asylum crisis management procedure and a return crisis management procedure*.

Amendment

(12) In situations of crisis, Member States might need a wider set of measures in order to manage a mass influx of third-country nationals in an orderly fashion. Such measures should *mainly be based on a mandatory relocation mechanism and the granting of prima facie international protection, as a response mechanism in the framework of a comprehensive Union migration management system*.

Or. en

Amendment 13

Proposal for a regulation

Recital 12 a (new)

Text proposed by the Commission

Amendment

(12a) The consideration of third-country nationals fleeing climate change, should also be taken into account, where appropriate, in the determination of the specific groups of applicants, eligible for being granted prima facie international protection.

Amendment 14

Proposal for a regulation

Recital 13

Text proposed by the Commission

(13) In order to allow Member States to deal with large numbers of applications for international protection in situations of crisis, a longer time limit should be set for registering the applications for international protection made **during** such situations of crisis. Such **an** extension should be without prejudice to the rights of asylum applicants guaranteed by the Charter of Fundamental Rights of the European Union.

Amendment

(13) In order to allow Member States to deal with large numbers of applications for international protection in situations of crisis, a longer time limit should be set for registering the applications for international protection made **at the start of** such situations of crisis. Such **a temporary** extension should be without prejudice to the rights of asylum applicants guaranteed by the Charter of Fundamental Rights of the European Union **and Directive XXX/XXX/EU [Reception Conditions Directive]**.

Or. en

Amendment 15

Proposal for a regulation

Recital 14

Text proposed by the Commission

(14) In order to ensure that Member States have the necessary flexibility when confronted with a large influx of migrants expressing the intention to apply for asylum, the application of the border procedure, established by Article 41 of Regulation (EU) XXX/XXX [Asylum Procedures Regulation] should be broadened, and an asylum crisis management procedure should allow Member States to take a decision in the framework of a border procedure also on the merits of an application in cases

Amendment

deleted

where the applicant is of a nationality, or, in the case of stateless persons, a former habitual resident of a third country, for which the proportion of decisions granting international protection Union-wide is 75% or lower. As a result, in the application of the crisis border procedure, Member States should continue applying the border procedure as provided by Article 41 of Regulation (EU) XXX/XXX [Asylum Procedures Regulation] but could extend the application of the border procedure to nationals who come from third countries where the EU-wide average recognition rate is above 20% but under 75%.

Or. en

Amendment 16

Proposal for a regulation

Recital 15

Text proposed by the Commission

Amendment

(15) The screening of third-country nationals according to the rules laid down in Regulation (EU) No XXX/XXX [Screening Regulation] should apply with the possibility to extend the 5-day deadline by another five days, as specified in that Regulation.

deleted

Or. en

Amendment 17

Proposal for a regulation

Recital 16

Text proposed by the Commission

Amendment

(16) In a situation of crisis, in view of the possible strain on the asylum system,

deleted

Member States should have the possibility not to authorise the entry in their territory of applicants subject to a border procedure for a longer period of time than the ones set in Article 41 (11) and (13) of Regulation (EU) XXX/XXX [Asylum Procedures Regulation]. However, the procedures should be completed as soon as possible and in any event the periods of time should only be prolonged by an additional period not exceeding eight weeks; if those procedures cannot be completed by the expiry of that prolonged period, applicants should be authorised to enter the territory of a Member State for the purpose of completing the procedure for international protection.

Or. en

Amendment 18

Proposal for a regulation

Recital 17

Text proposed by the Commission

Amendment

(17) The return crisis management procedure should facilitate, in a situation of crisis, the return of illegally staying third-country nationals whose applications were rejected in the context of a crisis asylum management procedure and who have no right to remain and are not allowed to remain, by providing the competent national authorities with the necessary tools and sufficient time-frame to carry out return procedures with due diligence. To be able to respond to situations of crisis in an effective manner, the return crisis management procedure should apply also to applicants, third-country nationals and stateless persons subject to the border procedure referred to in Article 41 of the of proposed Regulation (EU) XXX/XXX [Asylum Procedures Regulation], whose

deleted

applications were rejected before the adoption of a Commission decision declaring that a Member State is confronted with a situation of crisis, and who have no right to remain and are not allowed to remain after such a decision.

Or. en

Amendment 19

Proposal for a regulation Recital 18

Text proposed by the Commission

Amendment

(18) When applying the return crisis management procedure, illegally staying third-country nationals or stateless persons who have no right to remain and are not allowed to remain should not be authorised to enter the territory of the Member State concerned and should be kept at the locations referred to in Article 41a(2) of Regulation (EU) XXX/XXX [Asylum Procedures Regulation] for a period that may be longer than the one established by that Article in order to enable authorities to cope with the situations of crisis and finalise return procedures; for this purpose, the maximum duration of 12 weeks of the border procedure for carrying out return set out in Article 41a(2) of Regulation (EU) XXX/XXX [Asylum Procedures Regulation] could be prolonged by an additional period that may not exceed eight weeks. During that period, it should be possible to keep the illegally staying third-country nationals in detention, in application of Article 41(a)(5) and (6) of Regulation (EU) XXX/XXX [Asylum Procedures Regulation], provided that the guarantees and conditions for detention laid down in Directive XXX/XXX/EU [recast Return Directive] are respected, including the individual assessment of

deleted

each case, judicial control of detention and adequate conditions of detention.

Or. en

Amendment 20

Proposal for a regulation Recital 19

Text proposed by the Commission

Amendment

(19) In order to allow for the proper management of a crisis situation and ensure a proper adaptation of the relevant rules on the asylum and return procedure, the Commission should, by way of an implementing decision, authorise concerned Member States, upon their reasoned request, to apply relevant derogatory rules. Such an implementing decision could authorise one or more requesting Member States to derogate from the relevant rules.

deleted

Or. en

Amendment 21

Proposal for a regulation Recital 19 a (new)

Text proposed by the Commission

Amendment

(19a) The initiative to request an assessment of a situation of crisis can be taken by the Commission, the Member State concerned, the Council or the European Parliament. The Commission should take into account requests for examining a possible situation of crisis from these institutional actors, as they all have a common responsibility to balance efforts, responsibility and solidarity within the Union, and between the Member

States. Timely responses to crises, even in their early stages, are in the interest of a well-functioning Common European Asylum System and therefore contribute to an efficient and sustainable common asylum and migration management.

Or. en

Amendment 22

Proposal for a regulation Recital 20

Text proposed by the Commission

(20) The Commission should ***examine a reasoned request submitted by a Member State*** while taking into account substantiated information gathered pursuant to Regulation (EU) XXX/XXX [Asylum Agency Regulation] and Regulation (EU) 2019/1896 of the European Parliament and of the Council³ and the Migration Management report referred to in Regulation (EU) XXX/XXX [Asylum and Migration Management].

³ Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624, OJ L 295, 14.11.2019, p. 1.

Amendment

(20) The Commission should ***assess a situation of crisis*** while taking into account substantiated information gathered pursuant to Regulation (EU) XXX/XXX [Asylum Agency Regulation] and Regulation (EU) 2019/1896 of the European Parliament and of the Council³ and the Migration Management report referred to in Regulation (EU) XXX/XXX [Asylum and Migration Management Regulation], ***as well as Reports by UNHCR, IOM, and evidence based, factual information from other Union Agencies.***

³ Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624, OJ L 295, 14.11.2019, p. 1.

Or. en

Amendment 23

Proposal for a regulation Recital 20 a (new)

Text proposed by the Commission

Amendment

(20a) A situation of crisis is not only based on numerical parameters. Local and regional aspects can be major elements in its assessment, as a considerable functional failure at local or regional level might generate the same consequences as a situation of crisis at national level.

Or. en

Amendment 24

Proposal for a regulation

Recital 21

Text proposed by the Commission

Amendment

(21) In order to provide Member States with additional time needed to deal with the situation of crisis and at the same time ensure an effective and as quick as possible access to the relevant procedures and rights, the Commission should authorise the application of the asylum crisis management procedure and the return crisis management procedure for a period of six months, which could be extended up to a period not exceeding one year. After the expiry of the relevant period, the extended deadlines provided for in the asylum and return crisis management procedures should not be applied to new applications for international protection.

deleted

Or. en

Amendment 25

Proposal for a regulation

Recital 22

Text proposed by the Commission

Amendment

(22) For the same reasons, the Commission should authorise the application of derogatory rules as regards the registration deadline for a period not exceeding four weeks, which should be renewable upon a new reasoned request submitted by the Member State concerned. The total period of application should nonetheless not exceed twelve weeks.

deleted

Or. en

Amendment 26

Proposal for a regulation Recital 23

Text proposed by the Commission

Amendment

(23) In a crisis situation, Member States should have the possibility to suspend the examination of applications for international protection made by displaced persons from third countries who are unable to return to their country of origin, where they would face a high degree of risk of being subject to indiscriminate violence, in exceptional situations of armed conflict. In such a case, immediate protection status should be granted to those persons. Member States should resume the examination of their application one year at the latest from its suspension.

deleted

Or. en

Amendment 27

Proposal for a regulation Recital 24

Text proposed by the Commission

Amendment

(24) *Persons granted immediate protection should continue to be considered as applicants for international protection, in view of their pending application for international protection within the meaning of Regulation (EU) XXX/XXX [Asylum Procedures Regulation], as well as within the meaning of Regulation (EU) XXX/XXX [Asylum and Migration Management].* *deleted*

Or. en

Amendment 28

Proposal for a regulation Recital 25

Text proposed by the Commission

Amendment

(25) *Member States should ensure that beneficiaries of immediate protection status have effective access to all the rights laid down in Regulation (EU) XXX/XXX [Qualification Regulation] applicable and equivalent to those enjoyed by beneficiaries of subsidiary protection.* *deleted*

Or. en

Amendment 29

Proposal for a regulation Recital 26

Text proposed by the Commission

Amendment

(26) *In order to carry out a proper assessment of applications for international protection submitted by beneficiaries of immediate protection, the asylum procedures should resume at the* *deleted*

latest after one year from the suspension of such procedures.

Or. en

Amendment 30

Proposal for a regulation

Recital 27

Text proposed by the Commission

(27) Since the adoption of Council Directive 2001/55/EC²⁵, the rules concerning the qualification of beneficiaries of international protection have evolved considerably. Given that this Regulation lays down rules for granting *immediate* protection *status* in *crisis* situations to displaced persons from third countries who are unable to return to their country of origin, and provides for specific rules for solidarity for such persons, Directive 2001/55/EC should be repealed.

²⁵ Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof (OJ L 212, 7.8.2001, p. 12.)

Amendment

(27) Since the adoption of Council Directive 2001/55/EC²⁵, the rules concerning the qualification of beneficiaries of international protection have evolved considerably. Given that this Regulation lays down rules for granting *prima facie international* protection in situations *of crisis* to displaced persons from third countries who are unable to return to their country of origin, and provides for specific rules for solidarity for such persons, Directive 2001/55/EC should be repealed.

²⁵ Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof (OJ L 212, 7.8.2001, p. 12.)

Or. en

Amendment 31

Proposal for a regulation

Recital 28

Text proposed by the Commission

Amendment

(28) *Specific rules should be set out for situations of force majeure, to allow Member States to extend the time limits set out in Regulation (EU) XXX/XXX [Asylum and Migration Management] under strict conditions where it is impossible to comply with those time limits due to the extraordinary situation. Such extension should apply to the time limits set out for sending and replying to take charge requests and take back notifications as well as the time limit to transfer an applicant to the Member State responsible.* *deleted*

Or. en

Amendment 32

Proposal for a regulation Recital 29

Text proposed by the Commission

Amendment

(29) *Specific rules should also be set out for situations of force majeure, to allow Member States to extend the time limits relating to registration of applications for international protection in Regulation (EU) XXX/XXX [Asylum Procedures Regulation], under strict conditions. In these cases, applications for international protection should be registered by that Member State at the latest four weeks from when they are made.* *deleted*

Or. en

Amendment 33

Proposal for a regulation Recital 30

Text proposed by the Commission

Amendment

(30) In such situations of force majeure, the Member State concerned should notify the Commission and, where applicable, the other Member States, of its intention to apply the respective derogations from those time limits, as well as the precise reasons for their intended application, as well as the period of time during which they will be applied.

deleted

Or. en

Amendment 34

Proposal for a regulation Recital 31

Text proposed by the Commission

Amendment

(31) In situations of force majeure, which render it impossible for a Member State to comply with the obligation to undertake solidarity measures within the timeframes established in the Regulation (EU) XXX/XXX [Asylum and Migration Management] and this Regulation, it should be possible for that Member State to notify the Commission and the other Member States of the precise reasons for which it considers that it is facing such a situation and extend the timeframe for undertaking solidarity measures.

deleted

Or. en

Amendment 35

Proposal for a regulation Recital 32

Text proposed by the Commission

Amendment

(32) Where a Member State is no

deleted

longer facing a situation of force majeure, it should, as soon as possible, notify the Commission, and where applicable, the other Member States, of the cessation of the situation. The time limits derogating from Regulation (EU) XXX/XXX [Asylum and Migration Management] should not be applied to new applications for international protection made or for third-country nationals or stateless persons found to be illegally staying after the date of that notification. Upon such notification, the time limits laid down in Regulation (EU) XXX/XXX [Asylum Procedures Regulation] should start to apply.

Or. en

Amendment 36

Proposal for a regulation Recital 32 a (new)

Text proposed by the Commission

Amendment

(32a) Regulation (EU) XXX/XXX [Asylum Procedures Regulation] provides for swift mechanisms in case many persons arriving in a Member States make an application for international protection. Member States are allowed to request the assistance of the human resources of different public administrations to assist with the registration workload, on the condition they received appropriate training; the support teams from the Asylum Agency may also assist, based on Regulation (EU) XXX/XXX [Asylum Procedures Regulation] and Regulation (EU) XXX/XXX [European Union Asylum Agency Regulation], to immediately compensate the regular staff shortages. These mechanisms, currently available in Union legislation, do not necessitate long or indeterminate periods of derogation

from the regular registration provisions in Regulation (EU) XXX/XXX [Asylum Procedures Regulation]. In an established situation of crisis, Member States should commit to trigger all possible legal mechanisms to guarantee a swift and comprehensive registration of applications, with a view to guaranteeing transparency and access to the procedure, based on principles of good administration; in such circumstances, only in the first weeks of a situation of crisis, a temporary derogation from the registration deadlines, established in Regulation (EU) XXX/XXX [Asylum Procedures Regulation] should be envisaged.

Or. en

Amendment 37

Proposal for a regulation Recital 32 b (new)

Text proposed by the Commission

Amendment

(32b) When registering applicants for international protection, Member States should always include in the registration forms all the elements necessary to determine the Member State responsible for examining the application, as well as any meaningful links the applicant may have with another Member State, to apply a smooth relocation procedure. Member States should rely on the assistance of the Asylum Agency and its support toolbox to establish these registration forms in the most comprehensive way. Such an approach should ensure swift transfers and ensure a quick access to the asylum procedure.

Or. en

Amendment 38

Proposal for a regulation Recital 32 c (new)

Text proposed by the Commission

Amendment

(32c) Applicants who made an application for international protection, should receive a document testifying the making of such an application. This document should facilitate the access to their rights in accordance with Directive XXX/XXX/EU [Reception Conditions Directive], following the making of that application, and until its formal registration.

Or. en

Amendment 39

Proposal for a regulation Recital 32 d (new)

Text proposed by the Commission

Amendment

(32d) With a view to accelerate relocation processes, the Member State in a situation of crisis should make use of the support teams and existing toolbox of the Asylum Agency, build on best practices and experience gathered in their permanent relocation support, in particular under the Council Decisions of September 2015 on emergency relocation, and at the occasion of Disembarkations following Search and Rescue interventions.

Or. en

Amendment 40

Proposal for a regulation

Recital 32 e (new)

Text proposed by the Commission

Amendment

(32e) When Member States are confronted with a situation of crisis, they should have swift access to assistance from other Member States. Smooth and quick relocations, as well as expedite procedures for determining the Member State responsible pursuant to Part III of Regulation (EU) XXX/XXX [Asylum and Migration Management Regulation] are a necessary tool to mitigate situations of crisis in the Member States concerned. Such a response should guarantee quick access to asylum procedures for applicants and efficient management of migration for the Union as a whole.

Or. en

Amendment 41

Proposal for a regulation

Recital 32 f (new)

Text proposed by the Commission

Amendment

(32f) Where Member States do not offer sufficient relocation pledges to meet the thresholds established by the European Commission in its decision on the situation of crisis, the Commission should be mandated to adjust the contributions of each Member State until the threshold set in the decision is met. A distribution key, based on the size of the population of each Member State, its GDP and the unemployment rate, should be used as a reference for the relocation contributions per Member State. In light of ensuring the proper integration of beneficiaries of relocation, the impact of the unemployment rate in the distribution key can contribute to responding to labour shortages at a national labour markets in

the relevant Member States.

Or. en

Amendment 42

Proposal for a regulation Recital 32 g (new)

Text proposed by the Commission

Amendment

(32g) When proposing the amount of relocation contributions, Member States should take into account the relocation support offered by cities and regions, as relocation and integration relies mainly on the actors at local level; they are therefore key actors in the achievement of successful relocation trajectories.

Or. en

Amendment 43

Proposal for a regulation Recital 32 h (new)

Text proposed by the Commission

Amendment

(32h) In view of coordinating and optimising all relocation efforts, an EU Relocation Coordinator, to be appointed by the Commission, should assist and supervise the relocation coordination of applicants and beneficiaries found eligible for relocation. The EU Relocation Coordinator should, in particular, endeavour to prioritise vulnerable persons, in particular unaccompanied minors, and beneficiaries of prima facie international protection in the relocation transfers. The EU Relocation Coordinator should, in cooperation with the Commission and the Asylum Agency, also promote coherent

working methods, for the verification of any meaningful links persons eligible for relocation might have with Member States of relocation.

Or. en

Amendment 44

Proposal for a regulation Recital 33 a (new)

Text proposed by the Commission

Amendment

(33a) Where Member States receive financial support for relocation, they should ensure that the local authorities supporting the relocation process benefit from this financial support.

Or. en

Amendment 45

Proposal for a regulation Recital 34

Text proposed by the Commission

Amendment

(34) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council²⁶.

(34) In order to allow for the necessary adaptation of the rules on asylum procedures as well as those on solidarity, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of the establishment of the decision on a situation of crisis, relocation contributions in a situation of crisis, registration of applications for international protection in a situation of crisis, granting prima facie international protection and establishing when a situation of crisis ends. It is of particular importance that the Commission carry out

appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making^{1a}. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

²⁶ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers, (OJ L 55, 28.2.2011, p. 13).

^{1a} OJ L 123, 12.5.2016, p. 1.

Or. en

Amendment 46

Proposal for a regulation Recital 35

Text proposed by the Commission

Amendment

(35) The examination procedure should be used for the adoption of solidarity measures in situations of crisis for authorising the application of derogatory procedural rules, and for triggering the granting of immediate protection status.

deleted

Or. en

Amendment 47

Proposal for a regulation
Recital 36

Text proposed by the Commission

Amendment

(36) The Commission should adopt immediately applicable implementing acts in duly justified imperative grounds of urgency due to the situation of crisis present in Member States.

deleted

Or. en

Amendment 48

Proposal for a regulation
Recital 37 a (new)

Text proposed by the Commission

Amendment

(37a) Since the objectives of this Regulation, namely to provide for the necessary adaptation of the rules on asylum procedures as well as those on solidarity in order to ensure that Member States are able to address situations of crisis, including force majeure in the field of asylum and migration management within the Union, cannot be sufficiently achieved by the Member States but can rather, by reason of the scale and effects of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

Or. en

Amendment 49

Proposal for a regulation
Article 1 – paragraph 1

Text proposed by the Commission

1. This Regulation addresses situations of crisis **and** force majeure in the field of migration and asylum within the Union and provides for specific **rules derogating from those** set out in **Regulations** (EU) XXX/XXX [Asylum and Migration Management] **and** (EU) XXX/XXX [Asylum Procedures Regulation] **and in Directive XXX [recast Return Directive]**.

Amendment

1. This Regulation addresses situations of crisis, **including** force majeure, in the field of migration and asylum within the Union and provides for specific **derogations from the rules set out in Regulation** (EU) XXX/XXX [Asylum Procedures Regulation]. **This Regulation establishes a crisis response mechanism, aiming at the alleviating the constraints for Member States facing a situation of crisis and at protecting the rights of applicants and beneficiaries of international protection, including access to the procedure and reception conditions in a situation of crisis.**

Or. en

Amendment 50

Proposal for a regulation
Article 1 a (new)

Text proposed by the Commission

Amendment

Article 1a

Definitions

For the purpose of this Regulation, the following definitions apply:

(1) 'a situation of crisis' means

(a) – an exceptional situation of mass influx of third-country nationals or stateless persons arriving irregularly, or following evacuation programmes, in a Member State or disembarking on its territory following search and rescue operations, being of such a scale, in proportion to the population, GDP and unemployment rate of the Member State concerned, and nature, which renders

that Member State's asylum, reception or return system at local, regional or national level non-functional, or

– an exceptional situation due to an irresistible force or an unforeseen event beyond its control, being of such a scale, in proportion to the population, GDP and unemployment rate of the Member State concerned, and nature, which prevents the receiving Member State to meet its obligations under Union asylum and migration law;

(b) 'an imminent risk' of such a situation referred to under point (1)(a) .

(2) 'a benefitting Member state' means a Member State receiving support under the provisions of this Regulation;

(3) 'a contributing Member State' means the Member State which undertakes relocation under the provisions of this Regulation.

Or. en

Amendment 51

Proposal for a regulation Article 2

Text proposed by the Commission

Amendment

Article 2

deleted

Solidarity in situations of crisis

1. For the purpose of providing solidarity contributions for the benefit of a Member State in situations of crisis as set out in Article 1(2)(a), Part IV of Regulation (EU) XXX/XXX [Asylum and Migration Management] shall apply mutatis mutandis, with the exception of Article 45(1), point (d), Article 47, Article 48, Article 49, Article 51(3)(b)(iii) and (4), Article 52(2) and (5) and Article 53(2), second and third subparagraphs.

2. *By way of derogation from Article 50(3), the assessment referred to in that paragraph shall cover the situation in the Member State concerned during the preceding [one] month.*
3. *By way of derogation from Articles 51(1), 52(3) and 53(1) of Regulation (EU) XXX/XXX [Asylum and Migration Management], the deadlines set in those provisions shall be shortened to one week.*
4. *By way of derogation from Article 51(2) of Regulation (EU) XXX/XXX [Asylum and Migration Management] the report referred to therein shall indicate whether the Member State concerned is in a situation of crisis as defined in Article 1(2)(a) of this Regulation.*
5. *By way of derogation from Article 51(3)(b)(ii), Article 52(1) and 52(3) first sub-paragraph and Article 53(3)(a) of Regulation (EU) XXX/XXX [Asylum and Migration Management], relocation shall include not only persons referred to in points (a) and (c) of Article 45(1) of that Regulation, but also persons referred to in points (a) and (b) of Article 45(2).*
6. *By way of derogation from Article 54 of Regulation (EU) XXX/XXX [Asylum and Migration Management], the share calculated in accordance with the formula set out in that Article shall also apply to measures set out in Article 45(2), points (a) and (b) of that Regulation.*
7. *By way of derogation from Article 55(2) of Regulation (EU) XXX/XXX [Asylum and Migration Management], the deadline set therein shall be set at four months.*

Or. en

Amendment 52

Proposal for a regulation Article 2 a (new)

Article 2a

Assessment of a situation of crisis

1. The Commission shall assess whether a Member State is in a situation of crisis in any of the following cases:

(a) the Member State has informed the Commission, in a detailed request, that it considers itself to be in a situation of crisis;

(b) on the basis of available information, the Commission considers that the Member State may be in a situation of crisis;

(c) on the basis of available information, the European Parliament or the Council considers that the Member State is in a situation of crisis.

2. When assessing whether a Member State is in a situation of crisis, the Commission shall consult the Justice and Home Affairs Agencies, in particular the Asylum Agency, the European Border and Coast Guard Agency and the Fundamental Rights Agency as well as International Organisations, in particular, UNHCR and IOM, and take into account the information gathered pursuant to the Commission Recommendation (EU) 2020/1366 of 23 September 2020 on an EU mechanism for preparedness and management of crises related to migration^{1a} (Migration Preparedness and Crisis Blueprint) and the Migration Management Report referred to in Article 6(4) of Regulation (EU) XXX/XXX [Asylum and Migration Management Regulation].

3. The Commission shall consult the Member State concerned during its assessment.

4. The Commission shall immediately notify the European Parliament, the

Council and the Member States that it is undertaking such an assessment.

5. An assessment of a situation of crisis as referred to in paragraph 1 shall cover the situation in the Member State concerned during the preceding two months, compared to the overall situation in the Union, and shall take into account, in particular, the following elements:

(a) the number of applications for international protection by third-country nationals and the nationality of the applicants;

(b) the number of return decisions adopted in compliance with Directive 2008/115/EC;

(c) the number of third-country nationals admitted through Union and national resettlement and humanitarian admission schemes;

(d) the number of incoming and outgoing take charge requests and take back notifications in accordance with Articles 34 and 36 of Regulation (EU) XXX/XXX [Asylum and Migration Management Regulation];

(e) the number of unaccompanied minors;

(f) the number of transfers carried out in accordance with Article 31 of Regulation (EU) XXX/XXX [Asylum and Migration Management Regulation];

(g) the number and nationality of persons apprehended in connection with an irregular crossing of the external land, sea or air border;

(h) the number and nationality of third-country nationals disembarked following search and rescue operations, including the number of applications for international protection;

6. The assessment of a situation of crisis shall also take into account the following:

- (a) the information presented by the Member State concerned, where the assessment is carried out pursuant to paragraph 1, point (a);*
- (b) the geopolitical situation in relevant third countries that may affect migratory movements;*
- (c) the relevant Recommendations provided for in Article 15 of Council Regulation (EU) No 1053/2013, Article 15 of Regulation (EU) XXX/XXX [European Union Asylum Agency Regulation] and Article 32(7) of Regulation (EU) 2019/1896, and the relevant Council decisions adopted under Article 22 of Regulation (EU) XXX/XXX [European Union Asylum Agency Regulation];*
- (d) the Integrated Situational Awareness and Analysis (ISAA) reports under Council Implementing Decision (EU) 2018/1993 on the EU Integrated Political Crisis Response Arrangements, provided that the Integrated Political Crisis Response is activated or the Migration Situational Awareness and Analysis (MISAA) report issued under the first stage of the Migration Preparedness and Crisis Blueprint, when the Integrated Political Crisis Response is not activated;*
- (e) the support provided by Union Agencies to the Member State potentially in a situation of crisis.*

^{1a} OJ L 317, 1.10.2020, p. 26.

Or. en

Amendment 53

Proposal for a regulation Article 2 b (new)

Text proposed by the Commission

Amendment

Article 2b

Decision on a situation of crisis

- 1. The Commission shall adopt a decision on a situation of a crisis following the request for an assessment carried out pursuant to Article 2a, no later than one week after the notification referred to in Article 2a(4), and submit it to the European Parliament and the Council.*
- 2. In its decision, the Commission shall indicate whether the Member State concerned is in a situation of crisis.*
- 3. Where the Commission concludes that the Member State concerned is in a situation of crisis, the decision on a situation of crisis shall identify:*
 - (a) the capacity of the Member State concerned in the field of migration management, in particular asylum as well as its overall needs in order to manage its asylum caseload;*
 - (b) the measures that the Member State concerned should take in the field of migration management, and in particular in the field of asylum;*
 - (c) the appropriate amount of relocation contributions needed to address the situation of crisis and the expected timeframe for the implementation of those contributions;*
 - (d) the categories of persons as referred to in Article 2c(1) to be relocated by the contributing Member States;*
- 4. The Commission shall adopt the decision on a situation of crisis by means of a delegated act in accordance with Article 12 b.*

Or. en

Amendment 54

Proposal for a regulation

Article 2 c (new)

Text proposed by the Commission

Amendment

Article 2c

Solidarity Response Plans in a situation of crisis

1. Where the decision referred to in Article 2b indicates that a Member State is in a situation of crisis, the contributing Member States, which are themselves not benefitting Member States, shall contribute through relocation of applicants for international protection, regardless of whether such applicants are subject to the border procedure, and of beneficiaries of international protection who have been granted international protection less than three years before the adoption of the delegated act referred to in Article 2d. Member States shall prioritise the relocation of vulnerable persons, in particular unaccompanied minors, and, in case of a situation of crisis referred to in Article 1a(1)(a), beneficiaries of prima facie international protection granted in accordance with Article 10a.

2. Within one week of the adoption of the decision on the situation of crisis referred to in Article 2b, Member States shall submit to the Commission a Solidarity Response Plan. The Solidarity Response Plan shall indicate the Member State's proposed amount of relocation contributions, including the categories of persons to be relocated pursuant paragraph 1 of this Article. Member States shall also indicate the detailed arrangements and timeframe for the implementation of those proposed contributions.

A Member State proposing relocation contributions set out in the first subparagraph may request a deduction of 10% of its share calculated in accordance with the distribution key set out in Article

2e where it demonstrates in the Solidarity Response Plan that over the preceding five years it has been responsible for at least twice the Union average per capita of applications for international protection.

Where contributions have been made in response to a request by a benefiting Member State for relocation support from contributing Member States to prevent a situation of crisis on its territory, within the six months preceding the notification of Article 2a(4), and where they correspond to relocation measures set out in the decision on a situation of crisis pursuant to Article 2b, the Commission shall deduct these contributions from their corresponding share calculated in accordance with the distribution key set out in Article 2e

Or. en

Amendment 55

Proposal for a regulation Article 2 d (new)

Text proposed by the Commission

Amendment

Article 2d

Commission delegated act on measures to be taken on in situations of crisis

1. Within one week of the submission of the Solidarity Response Plans pursuant to Article 2c(2), the Commission shall adopt a delegated act, in accordance with Article 12a.

2. The Commission shall, by means of a delegated act;

(a) in a situation of crisis referred to in Article 1a(1)(a):

- (i) establish whether the derogation foreseen in Article 6 is to be triggered;*
- (ii) establish that there is a need to prioritise pursuant to Article 10a(2), a certain group of applicants for prima facie international protection, where their application for international protection is likely to be well-founded;*
- (iii) define the specific country of origin, or a part of a specific country of origin, or the specific group of applicants on the basis of other well-defined criteria, drawn from Regulation (EU) XXX/XXX [Qualification Regulation] in respect of the persons referred to in point Article 10a (1), and where their application for international protection is likely to be well-founded;*
- (b) in a situation of crisis referred to in Article 1a(1), including an imminent risk of a situation of crisis, set out, in addition to the measures referred to in under point (a) of this paragraph:*
 - (i) the distribution of persons to be relocated as established in the decision on a situation of crisis pursuant to Article 2b (3)(c), among the contributing Member States, on the basis of the distribution key set out in Article 2e;*
 - (ii) the distribution of the different categories of persons to be relocated as established in the decision on a situation of crisis pursuant to Article 2b (3)(d), among the contributing Member States.*

The distribution referred to in point (b) of paragraph 2 of this Article shall be adjusted where a contributing Member State making a request pursuant to the second subparagraph of Article 2c(2) demonstrates in the Solidarity Response Plan that over the preceding five years it has been responsible for at least twice the Union average per capita of applications for international protection. In such cases that contributing Member State shall

receive a deduction of 10% of its share calculated according to the distribution key set out in Article 2e.

Where contributions have been made in response to a request by a benefitting Member State for relocation support from contributing Member States to prevent a situation of crisis on its territory within the six months preceding the notification of Article 2a(4), and where they correspond to relocation measures set out in the decision on a situation of crisis pursuant to Article 2b, the Commission shall deduct these contributions from their corresponding share calculated in accordance with the distribution key set out in Article 2e.

These deductions shall be distributed proportionately among the other contributing Member States in accordance with the distribution key set out in Article 2e.

Where one or more Member States have not submitted a Solidarity Response Plan, the Commission shall determine their relocation contribution taking into account the needs identified in the decision on the situation of crisis pursuant to Article 2b and in accordance with the distribution key set out in Article 2e.

Where the Commission considers that the amount of relocation contributions or the categories of persons pursuant to Article 2c(1) indicated in the Solidarity Response Plans do not correspond to the needs identified in the decision on the situation of crisis pursuant to Article 2b, the Commission shall upgrade the relocation contributions in accordance with the distribution key set out in Article 2e.

3. The measures provided for in the delegated act shall be applicable as from the day of its entry into force, and shall last until the situation of crisis is ended pursuant to Article 10b.

4. The Commission shall report on the implementation of the delegated act every three months after its entry into force. The report shall contain an analysis of the effectiveness of the measures undertaken.

Or. en

Amendment 56

Proposal for a regulation Article 2 e (new)

Text proposed by the Commission

Amendment

Article 2e

Distribution key

The share of relocation contributions by each contributing Member State in accordance with Article 2d shall be calculated by the Asylum Agency, in accordance with the formula based on the following criteria for each Member State, according to the latest available Eurostat data:

- (a) the size of the population(40% weighting);***
- (b) the total GDP(40% weighting);***
- (c) the unemployment rate(20% weighting).***

Or. en

Amendment 57

Proposal for a regulation Article 2 f (new)

Text proposed by the Commission

Amendment

Article 2f

EU Relocation Coordinator

- 1. With a view to supporting the**

mandatory relocation established in this Regulation, the Commission shall appoint an EU Relocation Coordinator, who will act as a contact point, in order to coordinate the relocation activities from the benefitting Member to the contributing Member States implementing their obligations referred to in Article 2d.

2. The EU Relocation Coordinator shall:

- (a) coordinate and support communication between the Member States involved;*
- (b) keep an overview of the persons eligible for relocation, and follow up on the ongoing relocations, and on the contributions of the Member States involved;*
- (c) organise, at regular intervals, meetings between the authorities of the benefitting Member State found to be in a situation of crisis and the contributing Member States, to establish the needs, including at an operational level, in order to facilitate the best interaction and cooperation among Member States, in the interest of the persons eligible for relocation and the efficiency of the mandatory relocation mechanism;*
- (d) promote best practices in the field of relocation.*

Or. en

Amendment 58

Proposal for a regulation Article 2 g (new)

Text proposed by the Commission

Amendment

Article 2g

Procedure before relocation

1. The procedure set out in this Article shall apply to persons referred to

in Article 2d.

2. Before identifying an applicant for international protection as a person who could be relocated, the benefitting Member State shall determine the Member State responsible for examining the relevant application.

Applicants for whom the benefitting Member State is determined as the Member State responsible pursuant to Articles 15 to 20 and 24 of Regulation (EU) XXX/XXX [Asylum and Migration Management Regulation], with the exception of Article 15(5), shall not be identified as a person who could be relocated.

Applicants for whom another Member State is determined as the Member State responsible pursuant to Articles 15 to 20 and 24 of Regulation (EU) XXX/XXX [Asylum and Migration Management Regulation], with the exception of Article 15(5), shall not be identified as a person who could be relocated. Those applicants shall be subject to the relevant provisions of Chapters IV to VII of Part III of Regulation (EU) XXX/XXX [Asylum and Migration Management Regulation].

3. Before applying the procedure set out in this Article, the benefitting Member State shall ensure that there are no reasonable grounds to consider the person concerned a danger to national security or to public order of that Member State. If there are reasonable grounds to consider the person a danger to national security or public order, the benefitting Member State shall not apply the relocation procedure set out in this Article.

4. Where relocation is applicable, the benefitting Member State shall identify the persons who could be relocated, in cooperation with the EU Relocation Coordinator, the Asylum Agency and the Coast Guard Agency and under the coordination of the Commission. Member States shall take into account, where

applicable, the existence of meaningful links between the person concerned and the contributing Member State. Where the person to be relocated is a beneficiary of international protection, the person concerned shall be relocated only after that person consented to relocation in writing.

5. The benefitting Member State shall transmit to the contributing Member State as quickly as possible the relevant information and documents on the person referred to in paragraph 4.

6. The contributing Member State shall examine the information transmitted by the benefitting Member State pursuant to paragraph 5 and shall check whether there are no reasonable grounds to consider the person concerned a danger to its national security or public order.

7. Where, following the check referred to in paragraph 6, the contributing Member State finds that there are no reasonable grounds to consider the person concerned a danger to its national security or public order, it shall confirm, within one week of that check, that it will relocate the person concerned. Where, following the check referred to in paragraph 6, the contributing Member State finds that there are reasonable grounds to consider the person concerned a danger to its national security or public order, it shall notify the benefitting Member State of the nature of the danger and the underlying elements for an alert from any relevant database within one week of that check. In such cases, the relocation of the person concerned shall not take place.

In the event that the contributing Member State fails to comply with the time-limits referred to in the first subparagraph, receipt of the information shall be considered to be confirmed and the contributing Member State shall relocate

and provide for proper arrangements for the arrival of the person concerned.

8. The benefitting Member State shall take a transfer decision within one week of receipt of the notification of the contributing Member State pursuant to paragraph 6 that there are no reasonable grounds to consider the person concerned a danger to its national security or public order. It shall notify the person concerned in writing without delay of the decision to transfer him or her to the contributing Member State.

9. The transfer of the person concerned from the benefitting Member State to the contributing Member State shall be carried out in accordance with the national law of the benefitting Member State, after consultation between the Member States concerned, as soon as practically possible, and at the latest within four weeks of the confirmation by the contributing Member State.

10. Articles 32(3), (4) and (5), Articles 33 and 34, Article 35(1) and (3), Article 36(2) and (3), and Articles 37 and 39 of Regulation (EU) XXX/XXX [Asylum and Migration Management Regulation] shall apply mutatis mutandis to the transfer for the purpose of relocation.

Or. en

Amendment 59

Proposal for a regulation Article 2 h (new)

Text proposed by the Commission

Amendment

Article 2 h

Procedure after relocation

1. The contributing Member State shall inform the benefitting Member State whether the person concerned

arrived within the set time limit.

2. Where the contributing Member State has relocated an applicant for international protection, that Member State shall also be the Member State responsible for examining the application for international protection. The contributing Member State shall indicate its responsibility in Eurodac pursuant to Article 11(1) of Regulation (EU) XXX/XXX [Eurodac Regulation].

3. Where the contributing Member State has relocated a beneficiary of international protection, the contributing Member State shall automatically grant international protection status to that person on the same basis.

Or. en

Justification

Note that in this draft, the Dublin check has been deleted.

Amendment 60

Proposal for a regulation Article 2 i (new)

Text proposed by the Commission

Amendment

Article 2i

Other obligations

The benefitting and contributing Member States shall keep the Commission informed on the implementation of relocation measures taken on a bilateral level.

Or. en

Justification

To be deleted?

Amendment 61

Proposal for a regulation Article 2 j (new)

Text proposed by the Commission

Amendment

Article 2j

Operational Coordination

Upon request, and in full cooperation and coordination with the EU Relocation Coordinator, the Commission shall coordinate the operational aspects of the relocation contributions proposed by the contributing Member States, including any assistance by experts or teams deployed by the Asylum Agency or the European Border and Coast Guard Agency. The operational assistance by the Asylum Agency shall intervene for the benefit of a smooth implementation of the relocation processes. Member States shall rely on the Asylum Agency for assistance in training, operational and technical assistance and within the operation of the migration management teams on the basis of Articles 16) and 21 of Regulation (EU) XXX/XXX [European Union Asylum Agency Regulation].

Or. en

Amendment 62

Proposal for a regulation Article 2 k (new)

Text proposed by the Commission

Amendment

Article 2k

Financial support

1. Funding support following relocation pursuant to Articles 2b to 2h of this Regulation shall be implemented in accordance with Article 20) of Regulation

(EU) 2021/1147 of the European Parliament and of the Council of 7 July 2021 establishing the Asylum, Migration and Integration Fund ^{1a}, based on the objective referred to in Article 3(2)(d) of that Regulation.

2. Emergency funding support for the Member State in a situation of crisis may be accorded pursuant Article 31 (1)(a) and (b) of Regulation (EU) 2021/1147.

3. Funding pursuant to Article 9(1), Article 11(9) and Annex II(2)(d) and Annex IV of Regulation (EU) 2021/1147 may be allocated to local and regional authorities and organisations supporting relocation efforts by their Member States.

^{1a} OJ L 251, 15.7.2021, p. 1

Or. en

Amendment 63

Proposal for a regulation Chapter III – title

Text proposed by the Commission

Asylum **and return** procedures in a situation of crisis

Amendment

Asylum procedures in a situation of crisis

Or. en

Amendment 64

Proposal for a regulation Article 3

Text proposed by the Commission

[...]

Amendment

deleted

Amendment 65**Proposal for a regulation
Article 4***Text proposed by the Commission**Amendment***Article 4***deleted****Asylum crisis management procedure***

1. In a crisis situation as referred to in Article 1(2), and in accordance with the procedures laid down in Article 3, Member States may, as regards applications made within the period during which this Article is applied, derogate from Article 41 of Regulation (EU) XXX/XXX [Asylum Procedures Regulation] as follows:

(a) By way of derogation from Article 41(2)(b) of Regulation (EU) XXX/XXX [Asylum Procedures Regulation], Member States may in a border procedure take decisions on the merits of an application in cases where the applicant is of a nationality, or, in the case of stateless persons, a former habitual resident of a third country, for which the proportion of decisions granting international protection by the determining authority is, according to the latest available yearly Union-wide average Eurostat data, 75% or lower, in addition to the cases referred to in Article 40(1) of Regulation (EU) XXX/XXX [Asylum Procedures Regulation];

(b) By way of derogation from Article 41(11) and (13) of Regulation (EU) XXX/XXX [Asylum Procedures Regulation], the maximum duration of the border procedure for the examination of applications set out in that Article may be prolonged by an additional period of maximum eight weeks. Following this

period, the applicant shall be authorised to enter the Member State's territory for the completion of the procedure for international protection.

Or. en

Amendment 66

Proposal for a regulation Article 5

Text proposed by the Commission

Amendment

Article 5

deleted

Return crisis management procedure

1. In a crisis situation as referred to in Article 1(2), and in accordance with the procedures laid down in Article 3, Member States may, in respect of illegally staying third-country nationals or stateless persons whose applications were rejected in the context of the asylum crisis management procedure pursuant to Article 4, and who have no right to remain and are not allowed to remain, derogate from Article 41a of Regulation (EU) XXX/XXX [Asylum Procedures Regulation] as follows:

(a) By way of derogation from Article 41a(2) of Regulation (EU) XXX/XXX [Asylum Procedures Regulation], the maximum period during which third-country nationals or stateless persons shall be kept at the locations referred to in that Article may be prolonged by an additional period of maximum eight weeks;

(b) By way of derogation from Article 41a(7) of Regulation (EU) XXX/XXX [Asylum Procedures Regulation], the period of detention set in that Article shall not exceed the period referred to in point (a);

(c) *In addition to the cases provided for by Article 6(2) of Directive XXX [recast Return Directive], Member States shall establish that a risk of absconding is presumed in an individual case, unless proven otherwise, when the criterion referred to in Article 6(1), point (f) of Directive XXX [recast Return Directive] is fulfilled or when the applicant, third-country national or stateless person concerned is manifestly and persistently not fulfilling the obligation to cooperate established by Article 7 of that Directive.*

2. *Paragraph 1 shall also apply to applicants, third-country nationals and stateless persons subject to the procedure referred to in Article 41 of Regulation (EU) XXX/XXX [Asylum Procedures Regulation] whose application has been rejected before the adoption by the Commission of a decision issued in accordance with Article 3 of this Regulation, and who have no right to remain and are not allowed to remain after the adoption of that decision.*

Or. en

Amendment 67

Proposal for a regulation Article 6 – paragraph 1

Text proposed by the Commission

In a crisis *situation* as referred to in Article 1(2)(a) *and in accordance with the procedure laid down in Article 3*, applications made within *the period during which this Article is applied shall* be registered *no later than* within *four* weeks from when they are made by way of derogation from Article 27 of Regulation (EU) XXX/XXX [Asylum Procedures Regulation].

Amendment

1. In a *situation of* crisis as referred to in Article 1a(1)(a), applications made within *three weeks from the adoption of the delegated act referred to in Article 2 d shall* be registered within *a period of three* weeks from when they are made, *in accordance with Article 25 of Regulation (EU) XXX/XXX [Asylum Procedures Regulation]*, by way of a *single and temporary* derogation from Article 27 of Regulation (EU) XXX/XXX [Asylum

Procedures Regulation].

Or. en

Amendment 68

Proposal for a regulation

Article 6 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The Member State in a situation of crisis shall request the assistance of all authorities that are able to increase, at short notice, the human resources of its responsible authorities in accordance with Article 5 (3) of Regulation (EU) XXX/XXX [Asylum Procedures Regulation] and the assistance of experts deployed by the European Agency for Asylum in accordance with Article 5 (4)(b) of Regulation (EU) XXX/XXX [Asylum Procedures Regulation], and Article 16(2)(b) and Article 21(3)(d) of Regulation (EU) XXX/XXX [European Union Asylum Agency Regulation].

Or. en

Amendment 69

Proposal for a regulation

Article 6 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. In accordance with Article 3 of Directive XXX/XXX/EU [Reception Conditions Directive], and Regulation (EU) XXX/XXX [Asylum Procedures Regulation], applicants for international protection shall benefit from their rights under Directive XXX/XXX/EU [Reception Conditions Directive] and Regulation (EU) XXX/XXX [Asylum Procedures

Regulation], as soon as they make an application, regardless of when the registration takes place.

The responsible authority of the Member State in a situation of crisis shall provide the applicant with a document, indicating the moment of the making of the application.

Or. en

Amendment 70

Proposal for a regulation

Article 6 – paragraph 1 c (new)

Text proposed by the Commission

Amendment

1c. The Member State in a situation of crisis shall provide for additional and sufficient human and material resources to meet its obligations under Directive XXX/XXX/EU [Reception Conditions Directive].

Or. en

Amendment 71

Proposal for a regulation

Article 7

Text proposed by the Commission

Amendment

Article 7

deleted

Extension of registration time limit set out in Regulation (EU) XXX/XXX [Asylum Procedures Regulation]

1. Where a Member State is facing a situation of force majeure which renders it impossible to comply with the time limits set out in Article 27 of Regulation (EU) XXX/XXX [Asylum Procedures Regulation], that Member State shall

notify the Commission. After such notification, by way of derogation from Article 27 of Regulation (EU) XXX/XXX [Asylum Procedures Regulation], applications may be registered by that Member State no later than four weeks from when they are made. In the notification, the Member State concerned shall indicate the precise reasons for which it considers that this paragraph has to be applied and indicate the period of time during which it will be applied.

2. Where a Member State referred to in paragraph 1 is no longer facing a situation of force majeure as referred to in that paragraph which renders it impossible to comply with the time limits set out in Article 27 of Regulation (EU) XXX/XXX [Asylum Procedures Regulation], that Member State shall, as soon as possible, notify the Commission of the termination of the situation. After such notification, the extended time limit set out in paragraph 1 shall no longer be applied.

Or. en

Amendment 72

Proposal for a regulation Article 8

Text proposed by the Commission

Amendment

[...]

deleted

Or. en

Amendment 73

Proposal for a regulation Article 9

Article 9

deleted

Extension of the timeframes for solidarity measures

1. Where a Member State is facing a situation of force majeure which renders it impossible to comply with the obligation to undertake solidarity measures within the timeframes established in Articles 47 and 53(1) of Regulation (EU) XXX/XXX [Asylum and Migration Management] and Article 2 of this Regulation, it shall notify the Commission and the other Member States without delay. The Member State concerned shall indicate the precise reasons for which it considers that it is facing a situation of force majeure and provide all necessary information for that effect. After such notification, by way of derogation from the timeframes established by those Articles, the timeframe for undertaking solidarity measures established in those Articles shall be suspended for a maximum period of six months.

2. Where a Member State is no longer facing a situation of force majeure, that Member State shall immediately notify the Commission and the other Member States of the cessation of the situation. After such notification, the extended timeframe set out in paragraph 1 shall cease to apply.

Or. en

Amendment 74

Proposal for a regulation

Chapter V – title

Text proposed by the Commission

Amendment

Granting of *immediate* protection

Granting of *prima facie international* protection

Amendment 75**Proposal for a regulation
Article 10***Text proposed by the Commission**Amendment***Article 10***deleted****Granting of immediate protection status***

1. In a crisis situation as referred to in Article 1(2)(a), and on the basis of an implementing act adopted by the Commission in accordance with paragraph 4 of this Article, Member States may suspend the examination of applications for international protection in accordance with Regulation (EU) XXX/XXX [Asylum Procedures Regulation] and Regulation (EU) XXX/XXX [Qualification Regulation] in respect of displaced persons from third countries who are facing a high degree of risk of being subject to indiscriminate violence, in exceptional situations of armed conflict, and who are unable to return to their country of origin. In such a case, Member States shall grant immediate protection status to the persons concerned, unless they represent a danger to the national security or public order of the Member State. Such status shall be without prejudice to their ongoing application for international protection in the relevant Member State.

2. Member States shall ensure that beneficiaries of immediate protection have effective access to all the rights laid down in Regulation (EU) XXX/XXX [Qualification Regulation] applicable to beneficiaries of subsidiary protection.

3. Member States shall resume the examination of the applications for international protection that have been

suspended pursuant to paragraph 1 after a maximum of one year.

4. The Commission shall, by means of an implementing decision:

(a) establish that there is a situation of crisis on the basis of the elements referred to in Article 3;

(b) establish that there is a need to suspend the examination of applications for international protection;

(c) define the specific country of origin, or a part of a specific country of origin, in respect of the persons referred to in paragraph 1;

(d) establish the date from which this Article shall be applied and set out the time period during which applications for international protection of displaced person as referred to in point (a) may be suspended and immediate protection status shall be granted.

Or. en

Amendment 76

Proposal for a regulation Article 10 a (new)

Text proposed by the Commission

Amendment

Article 10a

Granting prima facie international protection

1. In a situation of crisis as referred to in Article 1a(1)(a), and on the basis of the delegated act referred to in Article 2d, Member States shall grant, prima facie international protection in accordance with Regulation (EU) XXX/XXX [Qualification Regulation] in respect of applicants of a specific country of origin or part(s) of it or with regard to specific groups of applicants pursuant to

paragraph 5 of this Article. Consultations with UNHCR and other relevant organisations shall take place ahead of the adoption of the delegated act.

2. For applicants referred to in paragraph 1, their application for international protection shall be prioritised in accordance with the basic principles and guarantees of Chapter II, of Regulation (EU) XXX/XXX [Asylum Procedures Regulation] based on Article 33(5)(a) of that Regulation. As these applications for international protection are likely to be well-founded, the examination of the applications shall not last longer than one month from their registration.

3. The applicants referred to in paragraph 1 shall be granted international protection, unless they represent a danger to the national security or public order of the Member State.

4. Beneficiaries of international protection granted in accordance with this Article shall have effective access to all the rights laid down in Regulation (EU) XXX/XXX [Qualification Regulation], corresponding to their protection status.

5. The Commission shall, in a situation of crisis as referred to in Article 1a(1)(a) by means of the delegated act, referred to in Article 2d,

(a) establish that there is a need to prioritise pursuant to paragraph 2 a certain group of applicants for prima facie international protection where their application for international protection is likely to be well-founded;

(b) define the specific country of origin, or a part of a specific country of origin, or the specific group of applicants on the basis of other, well-defined criteria, drawn from Regulation (EU) XXX/XXX [Qualification Regulation], in respect of the persons referred to in paragraph 1 where their application for international

protection is likely to be well-founded;

6. The delegated act, establishing the groups of applicants eligible for prima facie international protection pursuant to paragraph 5, points (a) and (b) of this Article, shall be reviewed every three months and, where the situation for these groups has changed, a revised delegated act may be adopted. The review shall be based on updated country of origin information, or updated information on the relevant specific groups eligible for prima facie international protection. Consultations with UNHCR and other relevant organisations shall also take place ahead of the adoption of the delegated act.

7. A decision to end the situation of crisis as referred to in Article 10b shall not affect the status of those who have been granted prima facie international protection under this Article nor the right to apply, if applicable, for refugee status, in accordance with Regulation (EU) XXX/XXX [Qualification Regulation].

Or. en

Amendment 77

Proposal for a regulation Article 10 b (new)

Text proposed by the Commission

Amendment

Article 10b

End of a situation of crisis

The Commission shall adopt a delegated act in accordance with Article 12a to determine whether the situation of crisis in a Member State has ended, based on the same criteria as listed in Article 2a.

Or. en

Amendment 78

Proposal for a regulation Article 11

Text proposed by the Commission

Amendment

Article 11

deleted

Adoption of implementing acts

1. The Commission shall adopt implementing acts in respect of authorising the application of the derogatory procedural rules referred to in Articles 4, 5 and 6, and triggering the granting of immediate protection status in accordance with Article 10. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 12(2).

2. On duly justified imperative grounds of urgency, due to the situation of crisis as defined in Article 1(2) in a Member State, the Commission shall adopt immediately applicable implementing acts in respect of authorising the application of the derogatory procedural rules referred to in Articles 4, 5 and 6, and triggering the granting of immediate protection status in accordance with Article 10. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 12(3).

3. The implementing acts shall remain in force for a period not exceeding one year.

Or. en

Amendment 79

Proposal for a regulation Article 12

Text proposed by the Commission

Amendment

Article 12

deleted

Committee procedure

1. For the implementing act referred to in Article 3, the Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

3. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.

Or. en

Amendment 80

**Proposal for a regulation
Article 12 a (new)**

Text proposed by the Commission

Amendment

Article 12a

Exercise of delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 2d, Article 10a(6) and Article 10b shall be conferred on the Commission for a period of five years from [date of entry into force of the Regulation]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament

or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in Article 2d, Article 10a(6) and Article 10b may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Article 2d, Article 10a(6) and Article 10b shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of [two weeks] of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object.

Or. en

Amendment 81

Proposal for a regulation Article 12 b (new)

Article 12b

Urgency Procedure

- 1. Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2.***
- 2. The notification of a delegated act to the European Parliament and to the Council shall state the reasons for the use of the urgency procedure.***
- 2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 2b(4). In such a case, the Commission shall repeal the act immediately following the notification of the decision to object by the European Parliament or by the Council.***

Or. en