



Brussels, 6.4.2016  
C(2016) 1415 final

Ms Laura BOLDRINI  
President of the  
Camera dei Deputati  
Piazza Montecitorio  
IT – 00100 ROMA

*Dear President,*

*The Commission would like to thank the Camera dei Deputati for its Opinion on the proposal for a regulation of the European Parliament and of the Council establishing a crisis relocation mechanism and amending Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanism for determining the Member State responsible for examining an application of international protection lodged in one of the Member States by a third country national or a stateless person {COM(2015) 450 final}; on the proposal for a Council Decision establishing provisional measures in the area of international protection for the benefit of Italy, Greece and Hungary {COM(2015) 451 final}; and on the proposal for a Regulation of the European Parliament and of the Council establishing an EU common list of safe countries of origin for the purposes of Directive 2013/32/EU of the European Parliament and of the Council on common procedures for granting and withdrawing international protection, and amending Directive 2013/32/EU {COM(2015) 452 final}.*

*These proposals form part of a broader package of comprehensive measures that the Commission has proposed and will propose to respond to the current refugee crisis and to prepare for future challenges, in line with European Agenda on Migration<sup>1</sup>.*

*The Commission has launched a study evaluating the Dublin system. This work as well as the experiences reached with the implementation of the temporary emergency relocation schemes will constitute the basis for the upcoming Commission proposal on the reform of the Dublin Regulation. In addition, the Commission is currently assessing the need for a more comprehensive reform of the Common European Asylum System (CEAS).*

*The Commission welcomes the broad support of the Camera dei Deputati towards other EU measures that aim to address the migration and refugee crisis, namely through the strengthened control of the EU external borders, the fully operational hotspots, the cooperation with third-countries and the humanitarian aid to the most affected regions.*

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<sup>1</sup> COM(2015)240

*The views expressed by the Camera dei Deputati are very helpful and will be taken into account in the framework of further works on the Dublin reform. Informal consultations between the Commission and stakeholders, including the co-legislators, have been started.*

*As regards the concerns expressed in the Opinion, the Commission is pleased to provide a number of clarifications to the more technical comments in the attached Annex. Notably the Annex provides with more detailed explanations on the choice of the different criteria and components of both the proposed and adopted relocation schemes. The Annex also elaborates on the measures advanced by the Commission with regard to the envisaged reform of the Dublin system, the 'hotspot' approach and the proposal for an EU common list of safe countries of origin.*

*The Commission hopes that the clarifications provided in this reply address the issues raised by the Committee and looks forward to continuing the political dialogue in the future.*

*Yours faithfully,*

*Frans Timmermans  
First Vice-President*

*Dimitris Avramopoulos  
Member of the Commission*

## ANNEX

*The Commission has carefully considered the issues raised by the Camera dei Deputati in its Opinion and would like to offer the following observations:*

*A. With reference to the proposal COM(2015) 450 final and the proposal COM(2015) 451 final [now Council Decision (EU) 2015/1601 of 22 September 2015]:*

### Reform of the Dublin system

*Among the short and medium term initiatives presented by the Commission on 13 May 2015 in the framework of the European Agenda on Migration, the Commission committed towards a further reform of the Dublin system, which should be able to draw, inter alia, on the experience from the relocation mechanism. Member States are first and foremost responsible for fully implementing the current Dublin system. In particular, the Commission called upon Member States to allocate the resources needed in order to increase the number of transfers and cut delays, proactively and consistently apply the clauses related to family reunification, and make a broader and regular use of the discretionary clauses, allowing them to examine an asylum application and relieve the pressure on the frontline Member States. At Union level, the European Asylum Support Office (EASO) will support Member States by establishing a dedicated network of national Dublin Units. Member States and in particular 'frontline' Member States such as Italy and Greece must also implement fully the rules on taking migrants' fingerprints. For this purpose, the Commission adopted in May 2015 guidelines on the implementation of EU rules on the obligation to take fingerprints.*

### 'Hotspot' approach

*As part of its short term initiatives under the European Agenda on Migration, the Union launched the 'hotspot' approach, already under implementation in several locations in Italy and Greece. In this vein, EASO, Frontex, Europol and Eurojust are working on the ground with Italy and Greece to swiftly identify, register and fingerprint incoming migrants. The work of the agencies is complementary to one another. Consequently, those claiming asylum will be immediately channelled into an asylum procedure where EASO support teams help to process asylum cases as quickly as possible; for those not in need of protection, Frontex helps Member States by coordinating the return of irregular migrants; and Europol and Eurojust assist Italy and Greece with investigations to dismantle the smuggling and trafficking networks.*

*The emergency relocation mechanisms have naturally become a priority within the 'hotspot' approach, in so far as potential beneficiaries of these mechanisms are processed through the coordinated work of the EU agencies. In this regard, the EU is currently committed to explore further work methods and to increase cooperation levels among the various stakeholders in the 'hotspots' in order to step up the pace in which relocations are being carried out from Italy and Greece and thereby be able to meet the target of 160 000 persons to be relocated in a 2-year period.*

### Distribution formulas

*The distribution key included in Council Decision (EU) 2015/1601, of 22 September 2015, and Council Decision (EU) 2015/1523, of 14 September 2015, as well as the Commission's proposal of 9 September 2015 (COM(2015) 450 final) on establishing a crisis relocation mechanism is based on: a) the size of the population of the Member State of relocation (40% weighting); b) total GDP of the Member State of relocation (40% weighting); c) average number of asylum applications in the Member State of relocation per one million inhabitants over the period 2010-2014 (10% weighting, with a 30% cap of the population and GDP effect on the key); and d) unemployment rate (10% weighting, with a 30% cap of the population and GDP effect on the key).*

*While the criterion referred to the size of the population reflects the capacity of a Member State to absorb a certain number of refugees, the indicator assessing the total GDP measures the absolute wealth of a country and is indicative of the capacity of an economy to absorb and integrate refugees. GDP per capita is not to be used, as considerations per capita are already reflected in the criteria on the size of the population. The remaining two factors are of a merely corrective nature and hence they are directed at avoiding disproportionate effects on the overall distribution of the first two criteria, amounting to 80% of the distribution key. These criteria on past efforts of the Member State of relocation in the asylum field and on the unemployment rate reflect respectively the existing burden on a Member State in terms of asylum applications and the capacity to integrate refugees. The distribution key takes into account the fact that the Member States from which relocation will take place – such as Italy and Greece – should not themselves contribute as a Member State of relocation.*

### Recognition thresholds

*The Council decisions on the temporary emergency relocation schemes define 'applicants in clear need of international protection' as those belonging to nationalities for which, based on the latest available updated quarterly EU-wide average Eurostat data, the recognition rate is 75% or higher. With the aim of a clear and workable relocation system, the threshold is based on 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, according to the latest available statistics. On the one hand, this threshold ensures, to the maximum extent possible, that all applicants in clear need of international protection are in a position to fully and swiftly enjoy their protection rights in the Member State of relocation. On the other hand, it prevents Italy and Greece from relocating applicants who are likely to receive a negative decision to their application, and therefore prolong unduly their stay in the Union.*

*Consequently, although relocation operations are currently mainly targeting certain nationals such as Syrians and Eritreans, since the identification of the categories of applicants to be relocated is based on the latest available updated quarterly EU-wide average Eurostat data, nationalities to be targeted by relocation schemes in Italy and Greece may significantly change every 3-month period when the latest updated Eurostat data is again made available.*

### A single EU asylum system

*Among the long-term initiatives proposed in the European Agenda on Migration, the Commission is to launch a broad debate on the next steps in the development of Common European Asylum System, including issues like a common Asylum Code and the mutual recognition of asylum decisions. A longer term reflection towards establishing a single asylum decision process will also be part of the debate, aiming to guarantee equal treatment of asylum seekers throughout Europe.*

*The first and second implementation packages of the Agenda have already showed committed advancement in this direction. This also applies to the EASO whose role has been further strengthened. Beyond current support to the asylum systems of Italy and Greece, under Council Decision (EU) 2015/1601, of 22 September 2015, and Council Decision (EU) 2015/1523, of 14 September 2015, as well as the Commission's proposal of 9 September 2015 on establishing a crisis relocation mechanism, the agency is to coordinate and to provide operational support to Member States throughout the whole process of relocation schemes, from the arrival of third-country national on the territory of Italy or Greece until the completion of all applicable procedures. The importance of EASO has also been reflected in its call for 374 experts to participate in EASO operations in Italy and Greece, launched after the adoption of Council Decision 2015/1523, of 14 September.*

### Contributions by non-participants

*Article 9 of the original Commission proposal {COM(2015) 286 final} as well as Article 4(2) and (3) of the original Commission proposal {COM(2015) 451 final} envisaged the scenario where a Member State, in exceptional circumstances, could be temporarily unable to take part in the relocation scheme. Eventually, in Council Decision (EU) 2015/1601 of 22 September 2015, a system of financial contributions is no longer included. Under Article 4(5) Member States may still notify the Commission, in exceptional circumstances, where they are temporarily not able to take part in the relocation process, giving duly justified reasons compatible with the fundamental values of the Union under Article 2 TEU. These may refer to situations characterised by a sudden and massive inflow of nationals of third countries of such a magnitude as to place extreme pressure even on a well prepared asylum system otherwise functioning in line with the relevant Union acquis on asylum, or a risk of sudden and massive inflow of nationals of third countries of such a high probability that it warrants an immediate action. Notifications must be made by 26 December 2015. Hence the Commission shall assess the reasons given and submit proposals to the Council regarding a temporary suspension of the relocation. However, this suspension would only affect up to 30 % of applicants allocated to the Member State concerned under the distribution key. Where justified, the Commission may yet propose to extend the time limit for relocation of the remaining allocation by up to 12 months beyond the duration of the Decision.*

*The Commission is of the opinion that the current system under Council Decision (EU) 2015/1601 and Council Decision (EU) 2015/1523 will effectively work towards the full implementation of relocation from Italy and Greece, while at the same time allowing for enough flexibility in their materialization by taking into account eventual difficulties Member States may encounter throughout their realisation.*

### Timeframe for case identification

*The proposal {COM(2015) 450 final} provides the indicators the Commission should take into account in making the assessment of the existence of a crisis situation. Although the Commission considers these to represent objective criteria in order to appraise the existence of a crisis situation and believes that Italy would have equal possibilities in the future to meet these parameters as any other Member State potentially facing a similar scenario, the clause *inter alia* still allows the Commission to take into account further factors other than those mentioned above in its assessment of a potential situation of emergency.*

*Similarly, the Commission's proposals {COM(2015) 286 final} and {COM(2015) 451 final} included distribution keys which defined the number of applicants to be relocated from Italy and Greece and Italy, Greece and Hungary respectively to the other Member States. This allocation was based on their respective shares in the total number of the irregular border crossings in Italy, Greece and Hungary of persons in clear need of international protection. It was proposed that Italy, Greece and Hungary did not themselves contribute as relocating Member States. Thus, the relocation measure proposed constituted fair burden sharing between Italy, Greece and Hungary on the one hand and the other Member States on the other hand.*

### Transfer compensations

*The lump sum proposed in the Commission proposal {COM(2015) 451 final} and now included in both Council Decision (EU) 2015/1601 of 22 September 2015, and in the previous Council Decision (EU) 2015/1523 of 14 September 2015, is to amount at least to EUR 500 per applicant, which would cover his or her transport costs from the territories of the Member States benefitting from the above mentioned measures – such as Italy and Greece – to the Member States of relocation. This amount takes into account the actual costs to be borne by Italy and Greece in order to transfer an applicant to the Member State of relocation.*

*Whereas the lump sum of EUR 500 for Italy and Greece is foreseen to cover exclusively the transport costs of the applicant, the EUR 6 000 lump sum provided for in the Council Decisions – which is identical to the lump sum provided for in Article 18 of Regulation (EU) No 516/2014 – is to be understood as a contribution towards the costs of the asylum procedure and first reception arrangements in the Member States of relocation, which by their very nature are likely to extend far longer in time than the act of transfer, which is of finite character. Member States are also entitled to receive additional pre-financing to be paid in 2016 following the revision of their national programmes under the Asylum, Migration and Integration Fund to implement actions under these Decisions.*

*B. With reference to the proposal COM(2015) 452 final:*

*EU common list of safe countries of origin*

*Directive 2013/32/EU on common procedures for granting and withdrawing international protection (hereinafter "Directive 2013/32/EU") enables Member States to apply specific procedural rules, in particular accelerated and border procedures, where the applicant is a national of a country (or a stateless person in relation to a third country of former habitual residence) that has been designated as safe country of origin by national law and that, in addition, may be considered safe for the applicant in light of his or her particular circumstances. Only some Member States have adopted national lists of safe countries of origin. In addition these national lists present some divergences that could result from differences in the assessment of the safety of certain third countries or from differences in the nature of the flows of third country nationals that the Member States are facing.*

*Therefore, an EU common list of safe countries of origin would enable the fast-tracking of applications for international protection by nationals of the countries enlisted. However, applicants cannot be automatically rejected under any circumstances, whatever their origin is. The Commission proposal respects the fundamental rights and observes the principles recognised by the EU Charter of Fundamental Rights, including the right to asylum and protection against refoulement, as provided for, respectively, in Articles 18 and 19 of the Charter. In particular, it is recalled that, in line with Directive 2013/32/EU, the circumstance that a third country will be on the EU common list of safe countries of origin cannot establish an absolute guarantee of safety for nationals of that country and will not dispense therefore with the need to conduct an appropriate individual examination of their applications for international protection. It is also recalled that, where an applicant shows that there are serious reasons to consider the country not to be safe in his or her particular circumstances, the designation of the country as safe can no longer be considered relevant for him or her.*

*The proposal for an EU common list of safe countries of origin should be assessed in the broader context of the extensive implementation packages already adopted by Commission following the European Agenda on Migration, and of the other measures which have been announced.*