

TRANSLATION

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RESOLUTION OF THE 1st STANDING COMMITTEE

**(Constitutional affairs, affairs of the Prime Minister's Office and home affairs, general legal system
of the State and the civil service)**

(Rapporteur: MIGLIAVACCA)

approved at the session of 19 October 2016

ON THE

**PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
ESTABLISHING A COMMON PROCEDURE FOR INTERNATIONAL PROTECTION IN THE UNION AND
REPEALING DIRECTIVE 2013/32/EU (COM (2016) 467 final)**

pursuant to Article 144(1) and (6) of the Rules of Procedure

Sent to the President's Office on 25 October 2016

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The Committee,

having examined the Proposal for a Regulation pursuant to Article 144(1) and (6) of the Rules of Procedure,

Whereas:

the Proposal is aimed at replacing the current Asylum Procedures Directive (Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013) with a Regulation which establishes a fully harmonised common European procedure for international protection,

Given that:

the Proposal is intended to make asylum procedures simpler, clearer and shorter, replacing the disparate procedural arrangements currently in force in Member States;

the choice of a regulation (a directly applicable act) as the legal instrument instead of a directive was based on the need to achieve a higher degree of harmonisation and greater uniformity in the outcome of asylum procedures across all Member States, thereby removing incentives for asylum shopping and secondary movements between Member States,

Noting, in particular, that:

the six-month time limit for adopting decisions is maintained, while considerably shorter time limits are introduced for processing applications that are manifestly unfounded and inadmissible (one month), and for cases in which the accelerated procedure is applied (two months). New time limits are also envisaged for lodging appeals (from one week to one month) and for decisions during the first phase of the appeal (from two to six months);

procedural guarantees are enhanced to protect the rights of asylum-seekers throughout the procedure;

the Proposal introduces stricter rules to prevent abuse of the system, sanction manifestly abusive claims and remove incentives for secondary movements by setting out clear obligations for applicants to cooperate with the authorities throughout the procedure and by attaching strict consequences to non-compliance with obligations;

lastly, the Proposal is aimed at harmonising the rules on safe countries, making the application of the safe country concept compulsory and replacing national safe country lists with European lists or designations at Union level within five years of entry into force of the Regulation,

Given also that:

the legal basis for the proposal is Article 78(2)(d) of the Treaty on the Functioning of the European Union, which envisages the adoption of measures for common procedures for the granting and withdrawing of uniform asylum or subsidiary protection status;

the Proposal complies with the principle of subsidiarity since it involves action at European Union level to establish common procedural rules for granting and withdrawing international protection instead of different Member State procedures, thereby ensuring timely and effective action;

in accordance with the principle of proportionality, the Proposal does not go beyond what is necessary in order to achieve its objectives,

hereby issues a favourable opinion, with the following comments:

the reform of the European asylum arrangements will involve a number of burdens for Member States of first arrival such as Italy which run counter to the objective of the reform, namely to ensure more equal sharing of the burdens arising from the influx of asylum-seekers. The burdens arising from the Proposal will include the new preliminary examination procedures, the reduction in the time-limits for completing the procedures and the obligation to guarantee legal assistance and representation free of charge to all asylum-seekers.

OPINION OF THE 14TH STANDING COMMITTEE (EUROPEAN UNION POLICIES)

(Rapporteur: ROMANO)

5 October 2016

The Committee, having examined the proposal:

given that the Proposal for a Regulation concerning a comprehensive reform of the European asylum arrangements provides for the repeal and replacement of Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 (Asylum Procedures Directive) with a regulation, directly applicable in Member States, aimed at eliminating the differences between the various procedures in Member States and ensuring swift and efficient treatment of applications for international protection by means of a common procedure for granting and withdrawing international protection. Moreover, the Proposal clarifies and simplifies the procedural rules and provides the national authorities with the necessary instruments to examine and decide on applications efficiently with a view to combating abuses and secondary movements within the European Union, while at the same time strengthening the relevant procedural guarantees for individual asylum-seekers;

whereas the Proposal for a Regulation contains the following elements which are new compared with the current Asylum Procedures Directive:

although applications for international protection must be registered no later than three days after they have been lodged in accordance with Article 27, Article 28 introduces a new formalisation and completion procedure which applicants must carry out within ten days of lodging their applications;

the usual time-limit for concluding the examination of asylum applications is still six months. However, Article 34 reduces the period of time for which this time-limit can be extended, from the current nine months to three months, in cases where there is a disproportionate number of applicants or because of the complexity of the case;

as regards the accelerated procedure, Article 40 introduces a time-limit of two months, whereas the current rule simply provides for a reasonable period of time, with the result that the periods vary considerably from one Member State to another, from a few days to several months;

Article 34 lays down a time-limit of one month, as envisaged in the proposal to reform the Dublin Regulation, for the preliminary examination of the admissibility of an application in the event that the applicant comes from a safe third country or a first country of asylum;

to ensure that Member States comply with the stricter time-limits and procedures, the Proposal states that Member States can draw on the technical and operational assistance of the European Agency for Asylum;

the Proposal strengthens the procedure for rejecting applications based on implicit withdrawal by the applicant: Articles 7 and 39 make it compulsory, and no longer merely optional, for Member States to reject an application if the applicant refuses to cooperate by not providing the details requested or abandons the place of residence;

Article 13 makes it compulsory, rather than merely optional, for Member States to record personal interviews;

in relation to the rights of asylum-seekers, Article 15 makes it compulsory, and no longer merely optional, for Member States to provide, at the request of the applicant, free legal assistance and representation at every stage of the administrative procedure, and also during the appeal procedure where the obligation to do so already existed. In the view of the European Commission, the financial resources that will be required will be partly offset by fewer appeals as a result of better quality administrative decisions. Furthermore, the European Commission considers that this practice is already followed in twenty-two Member States;

Article 40 lays down an obligation rather than a mere option for Member States to follow the accelerated procedure in the cases envisaged and to complete it within two months. However, the same procedure remains optional in border or transit areas, where it involves the use of detention for a maximum period of one month;

the definition of the concepts of first country of asylum and safe third country are subsequently explained in Articles 44, 45 and 46, where it is stated that applying these concepts makes it possible to declare as inadmissible an application for protection at a preliminary phase to that during which the merits of the application are examined, and to apply the accelerated procedure,

comments favourably on the proposal, within its area of responsibility, with the following observations:

the legal basis for the proposal is Article 78(2)(d) of the Treaty on the Functioning of the European Union, which envisages the adoption of measures for common procedures for the granting and withdrawing of uniform asylum or subsidiary protection status.; This is in fact the same legal basis as for Directive 2013/32/EU which is being repealed and replaced;

The principle of subsidiarity is complied with, since the objective of establishing a common procedure for Member States for granting and withdrawing international protection, with a view to combating abuse and secondary movements within the European Union, cannot be sufficiently attained by the Member States acting alone;

the principle of proportionality is complied with, since the Proposal does not go beyond what is necessary to attain the abovementioned objective.

However, we would underline the fact that the reform of the European asylum arrangements will involve a number of burdens for Member States of first arrival such as Italy which run counter to the objective of the reform, namely to ensure equal sharing of the burdens arising from the influx of asylum-seekers. The burdens arising from the Proposal will include the new preliminary examination procedures, the reduction in the time-limits for completing the procedures and the obligation to guarantee legal assistance and representation free of charge to all asylum-seekers.