



**Parliament of Romania
Chamber of Deputies
Committee on European Affairs**

Bucharest 8 October 2015
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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
establishing the criteria and mechanisms for determining the Member State responsible
for examining an application for international protection lodged in one of the Member
States by a third country national or a stateless person - COM(2015)450**

According to the provisions of Article 170 paragraph (1) of the Regulations of the Chamber of Deputies, republished, The Committee on European Affairs, together with the Committee for Human Rights, Cults and National Minorities Issues, the Committee for Legal Matters, Discipline, and Immunities, the Committee for Defence, Public Order, and National Security, the Committee for Foreign Policy were notified to examine on the merits 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 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third country national or a stateless person - COM(2015)450.

Having regard to:

- the draft opinion adopted by the Committee for Human Rights, Cults and National Minorities Issues (4c-5/657/5.10.2015),
- the draft opinion adopted by the Committee for Defence, Public Order and National Security (4c-12/283/6.10.2015),
- the draft opinion adopted by the Committee for Foreign Policy (4c-13/58/2015),
- the Ministry of Foreign Affairs Notice,
- the Ministry of Internal Affairs Notice,
- Notice of the European Affairs Department of the Presidential Administration,
- Notice of the Office in Romania of the International Organization for Migration,
- messages of the Representative of Romania to EU,

- the contributions to the debates, of the representatives of the aforementioned institutions,
- the contributions of own secretariat,
- the fact sheet and the contributions of the EU Division - Chamber of Deputies,
- opinion of the Chamber of Deputies of 30 June 2015 on the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: A European agenda on migration - COM(2015)240,
- opinion of the Chamber of Deputies of 30 June 2015 on the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: The European Agenda on Security - COM(2015)185,

The Committee on European Affairs:

1. Takes note that, due to the uncertainties persisting in the EU Council on the proposal to establish a permanent crisis relocation mechanism, Romania has formulated, like many other Member States, substantive reservation on the Commission's legislative proposal.
2. Considers that the decision on a relocation mechanism for the applicants for international protection should be adopted through consensus-building among the Member States.

At the same time, it is certain that any of the Member States that supported in all circumstances the fundamental values and principles of the Union will also support the consensus aimed at establishing the relocation mechanism.
3. Asserts that, in interpreting Article 78 par. (2) letter c) TFEU through the Declaration on Article 222 TFEU, which states that the provisions of that Article shall not affect the right of another Member State to choose the most appropriate means to meet its obligation of solidarity, should be inferred that for a future practical application, fully and effectively, of a relocation mechanism, is necessary the consent of each individual Member State, which corresponds to the use of the principle of the voluntary nature of any relocation mechanism.
4. Considers that the main challenge still remains to truly establish the need for a permanent relocation mechanism, given that Article 78 para. (3) TFEU already provides that, "*[i]n the event of one or more Member States being confronted by an emergency situation characterised by a sudden inflow of nationals of third countries, the Council, on a proposal from the Commission, may adopt provisional measures for the benefit of the Member State(s) concerned.*"
5. Considers that the proposal for regulation should have explained the adequacy of Article 78 para. (2) letter e) TFEU as the legal basis; considers that, given the subject of the regulation, the use of Article 78 para. (3) TFEU would have been more appropriate.
6. Shows the risk arising from the regulatory parallelism between the mechanism of provisional measures targeted at Article 78 para. (3) TFEU and this proposal for

Regulation and appreciates as unclear the substantiation for the need of coexistence of the two mechanisms.

7. Points out that it would be reasonable to seek first solutions meant to avoid the perpetuation of a phenomenon that would jeopardize the very existence of the Union, than to mobilize all available resources for establishing a permanent relocation mechanism. At the same time, points out that the promotion of such mechanism involves the conviction of the proposal's initiators that the massive influx of migrants would become permanent.
8. Considers that it is important to motivate the need to promote this proposal for regulation, in line with the objective announced, namely the management in a long-term viable manner of the large and disproportionate inflows of third country nationals or stateless persons.
9. Asks the European Commission to clarify the future status of Directive 2001/55 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons, and the reasons why that directive has not been activated so far.
10. Expresses reservations and requests further clarifications on the future role of the European Commission in managing a permanent European mechanism, regarding the future criteria for assessing the functioning of a national asylum system, assuming that they would be faced with pressures meant to activate the future permanent relocation mechanism.
11. Calls for clarifications regarding the source and justification of the criteria relating to the distribution key for allocating applicants for international protection, given that this area of regulation, with sensitivities and national particularities, would require that these national particularities are taken into consideration in a more pronounced manner.
12. Notes that the objective of the relocation mechanism with respect to ensuring a fair distribution between the Member States of the persons entitled to international protection cannot be fully achieved as proposed by the European Commission, since the Protocols no. 21 and 22, annexed to the Treaties of the Union, provide derogatory legal regimes in the area of freedom, security and justice, thus excluding three of the Member States from the common legal regime.

Points out that this could be the grounds for waiving the mandatory nature of a future mechanism for relocating the applicants for international protection.

13. Welcomes the recognition of the importance of the national security and public order considerations in the context of the permanent mechanism; however, for the purposes of the corresponding provision of the Council Decision (EU) 2015/1601, it should be noted explicitly that if a Member State has reasonable grounds to believe that an applicant is a danger to the national security or public order, that State could refuse to accept that person, and not only to inform the other Member States about the security risk.
14. Notes that the proposal for regulation does not provide dissuasive measures for the potential abuses of the applicants or for refusing to cooperate with the authorities of the state where the proceedings for registration take place.
15. Welcomes the recognition of the importance of the considerations of integrating the applicants for international protection, in the sense of giving the Member State of

relocation the possibility to express certain preferences regarding the applicants, of course in compliance with the principle of non-discrimination.

16. Points out the need to be identified the ways to accompany the relocation procedure with instruments of a close administrative cooperation between the Member States and with the operational support of the European Asylum Support Office.
17. Expresses reservations regarding the possible "financial penalties" for the Member State that cannot participate in the relocation mechanism.
18. Considers that should be clarified the provisions designed to penalize with suspending the mechanism that beneficiary Member State which would infringe its obligations set out in connection with the roadmap with measures relating to the implementation of the mechanism; in other words, will need to be clarified the relationship between the transnational nature of a migration crisis (or pressure) and the importance of measures to address the crisis undertaken by the beneficiary Member State.
19. Recommends the urgent collection of information and the distinct analysis of the refugee children issue, especially of those who have arrived unaccompanied or lacking sufficient parental support, issue that could be the subject of a communication dedicated to this topic and of a plan of urgent measures, possibly in cooperation with the United Nations Children's Fund (UNICEF).
20. Joins the warning launched by the European Network on Statelessness' program, which has launched a campaign to stop increasing the number of stateless children in Europe, where about 600,000 people have no citizenship, recalling that these people are denied some basic rights, being more vulnerable to exploitation.
21. Welcomes the launch by the Romanian Government of the structured dialogue with the civil society representatives, as well as the prospect of creating a "National Coalition for the integration of refugees", which will aim at improving the institutional and legislative framework in the field, in order to facilitate the social integration of the refugees, focusing on the implementation of decisions such as logistics, healthcare, education, etc.
22. Recommends addressing the issue of migrants across the Union, comprising the business environment and the civil society, in order to identify common solutions to reduce the pressure on the government budgets, while fostering the social integration of the refugees.

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The Committee on European Affairs, at the sitting of 6 October 2015, in the presence of 15 of the 22 members, decided unanimously to adopt this opinion to be forwarded to the Standing Bureau of the Chamber of Deputies, for completion of the parliamentary scrutiny procedure.

Proposes to inform the European Union institutions and the Romanian Government on its observations and recommendations, as a contribution to the formulation of effective policies in the field of reference.

Proposes, at the same time, to forward its observations / recommendations to the European Commission, in the informal political dialogue proposed by the European Commission in the Communication "Delivering results for Europe", COM(2006)211.

Chairperson,
Ana BIRCHALL

Secretary,
Dorel Gheorghe CĂPRAR

Written by DM, FA, MB