PARLIAMENT OF ROMANIA
CHAMBER OF DEPUTIES

DECISION

adopting the opinion on the Proposal for a Regulation of the European Parliament and of the Council 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 (recast)
COM(2016) 270

Under the provisions of Articles 67 and 148 of the Romanian Constitution, republished, of Law No 373/2013 on cooperation between Parliament and the Government in the area of European affairs, and of Articles 160 to 185 of the Rules of Procedures of the Chamber of Deputies, republished,

The Chamber of Deputies hereby adopts this Decision:

Sole Article Having regard to Opinion No 4c-19/1097, adopted by the Committee for European Affairs at its meeting of 27 September 2016,

1. We maintain the objections and remarks in the reasoned opinion issued by the Committee for European Affairs on 20 September 2016 and approved by the plenary session of the Chamber of Deputies on 27 September 2016.

2. We maintain the observations and recommendations made in the reasoned opinion and in our own opinion, following the examination of 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 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.

3. We maintain the remarks and recommendations made in our opinion on the Communication from the Commission to the European Parliament and the Council 'Towards a reform of the Common European Asylum System and enhancing legal avenues to Europe' (COM(2016) 197), in particular the argument that the Dublin III Regulation is not unsuited to the current migration situation and that it should be reformed only in order to provide a simplified, fast and efficient framework for processing asylum applications.

4. We note that the reform of the asylum system has been triggered by the crisis that worsened in 2015 in Greece and Italy, which led to the suspension of the Dublin III Regulation in some Member States.

5. We note that the proposed changes are based on the premise that the objectives of the Dublin III system, which is the main component of the Common European Asylum System, continue to be valid, and that the basic principle that the Member State responsible for examining an application for international protection is the Member State of first entry still stands.

6. Amongst the proposed changes, we regard as essential the introduction of the system for sharing the surplus of asylum seekers in the form of a corrective allocation mechanism, which will automatically determine the situations where a country faces a disproportionate number of asylum applications, elimination of the clauses on cessation of the responsibility of the Member State which thus becomes responsible for an indefinite period of time for immigrants received on first entry and

the introduction of the concept of 'financial solidarity'.

7. We note the introduction of a formal obligation on asylum seekers to cooperate with the authorities implementing the procedures of the Dublin system, including to provide the information necessary to determine the Member State responsible, and we recall that we have supported the introduction of this obligation in all our earlier documents.

8. We note that there are different contradictory opinions in the debate on whether or not there is a need to transform the Dublin III system, from a simple responsibility-allocation instrument into a responsibility-sharing instrument, and that some Member States have called for a permanent responsibility-allocation system based on a distribution key, while others have been in favour of keeping and streamlining the current system, including the irregular entry criterion.

9. We note that there are divergent views also on whether the preferences of applicants should be taken into account. While some said that preferences could not be fully ignored as this would almost inevitably result in secondary movements, others strongly advised against, as clear, objective criteria were needed and adding preferences would result in complicated case-by-case assessments.

10. We note that various stakeholders, such as UNHCR and non-governmental organisations working in the area of asylum, considered that an applicant's preferences or characteristics should be taken into account for the allocation of a Member State responsible in view of integration perspectives and to reduce secondary movements.

11. We note that, during the talks at European Council level, the Romanian delegations have stated that any reform of the European asylum system must avoid an approach based on an automatic and mandatory principle and the introduction of financial penalties. It has been argued that it is necessary to take into account the realities in the Member States and their capacity to receive and integrate. Furthermore, it is necessary also to take into account the added value of Member States' contributions to the joint migration management efforts, through active and substantial participation in the relevant activities of Frontex, Europol, Interpol, the European Asylum Support Office, and other EU bodies.

We stress that, in this matter, Romania is in favour of consensual solutions that can contribute to strengthening the EU project, not to deepening intra-EU divisions. This aspect has maximum importance particularly in the current sensitive political context at EU level.

12. We support the positions expressed by Romania's representatives to the European institutions and reiterate our own position that relocation, both internally and externally, should be voluntary in both respects, i.e. both in respect of State participation and in respect of the beneficiary's agreement, as this is indeed the only method that can be applied in the EU to avoid secondary movements.

13. We contest the introduction of the concept of 'financial solidarity', because it transforms the obligation to take part in the mechanism for distributing responsibility among Member States into a financial penalty without any justification. We consider that the Commission's assessment regarding the expenses that a State incurs for a beneficiary of international protection, for a period of five years, has no basis in the relevant legislation.

Furthermore, we consider that, having regard to the reasoning used earlier to determine the lump sum of EUR 6 000 per relocated person allocated to the Member State, introducing an amount that is manifestly disproportionate, i.e. EUR 250 000 per person, without solid justification, cannot be accepted.

We point out that the 12-month limitation on the period in which a State may refuse to receive

immigrants appears to be an inconsistency in the system, because it can have different diverging interpretations and consequences relative to the goal pursued by the European Commission. It is not clear if the time limitation seeks to avoid the accumulation of amounts owed that would obviously be exaggerated and could not be paid, whether the intention is to persuade Member States that are reluctant to receive immigrants to change their mind and accept them, since they would have to receive them anyway after 12 months, or whether the goal is to amplify the role of the European Commission in relations with the Council.

We draw attention to the risk that a situation where the legitimate concerns expressed by some States are ignored could cause pressure for potential applications to exit the European Union.

14. We note that the Proposal for a Regulation no longer provides for compensatory funding, which means that persons to be taken over by Romania based on the reference key would no longer receive the lump sum, and there would be only EUR 500 for the actual transfer. As a result, the costs related to receiving, registering, processing, assisting and integrating relocated persons, including those for extending the housing infrastructure, would have to be borne by the national budget. This is another example of a case where the actual specific individual situation of each Member State should be taken into account.

15. We consider that the maximum simplification of the reference key to only two indicators creates the risk that a discrepancy between those indicators, in the absence of any additional quantifying elements, could result in negative effects on some Member States.

We note that, in the application of the two earlier relocation decisions, the reference key for Romania was set at 3.75 %, but following the maximum simplification of the reference key it would increase to approximately 5.5 %, under the new regulation.

We point out that in the case of Romania, which has a large share of its own workforce working in other Member States (a sign of the difficulties encountered in ensuring jobs of a certain quality, social assistance, and healthcare and education services), the reference key does not properly reflect the State's capacity to receive and integrate groups of immigrants without significant adverse impact on its economic and social balance.

16. We note that the new provisions respond only in part to the criticisms regarding the lack of solidarity of the Member States with the frontline and destination countries, and we insist on implementing the mechanism for relocation from Greece and Italy, which is not yet functional.

17. We consider that the situations of disproportionate pressure on asylum systems cannot occur again, given that the EU has already adopted important measures to reduce immigrant flows, guard the border and the coast, and make return actions more consistent. Therefore, we consider that it would be more useful to focus EU action on consolidating the successes achieved so far in reducing immigrant inflows and on replicating models that have demonstrated their viability, compared to the relocation mechanism, for example, which has been shown to be very difficult to apply in practice.

18. Furthermore, given the massive destabilisation of the EU in 2015 caused by the uncontrollable flow of immigrants, which threatened its very existence, we consider that the Union should take action precisely to ensure that situations of disproportionate pressure on asylum systems cannot occur again. We point out, on the other hand, that action to create a corrective mechanism for sharing the surplus of asylum seekers may be interpreted as a reopening of the channels giving immigrants access to the prosperous States they wish to reach.

19. We recall that the objectives in the chapter on 'Migration and external borders' of the roadmap adopted in Bratislava by the informal meeting of the 27 heads of state and government, on

16 September 2016, include 'never to allow return to uncontrolled flows of last year and further bring down number of irregular migrants' and 'ensure full control of our external borders and get back to Schengen'. We call on the Commission to adapt its options to these guidelines.

We mention in this context that, if the Proposal for a Regulation is adopted, the corrective mechanism will operate automatically, without Council supervision, and the Council's power to decide on any relocation will be annulled.

20. We reiterate the opinion, expressed in our earlier analyses, that setting up complex systems for long-term management of large numbers of immigrants within the territory of the Member States is an anomaly that is intensely exploited by anti-European populist parties. Recalling that regulating the right to asylum or international protection by treaty did not take into account the possibility of an exodus like the one we have seen, we point out that if the signals sent by the EU, in the course of the regulatory process, are ambiguous and do not offer real solutions for a return to the situation before that exodus, the rise to power of anti-European populist parties will be certain, and the implementation of the policies supported by such parties could cause great social and economic upheavals within the Union, with adverse effects also for immigrants.

21. We consider that any mechanism for managing large numbers of immigrants should focus on the principle of a voluntary basis, and be short-term and in line with Article 78(3) TFEU, while the measures proposed in the draft regulation are not temporary and allocate responsibilities for an indefinite period of time to States that receive applicants for international assistance, via the corrective allocation mechanism.

We recall that Austria and Sweden have requested and received the approval of the European Commission to have their obligations to receive immigrants suspended, due to the large number of immigrants that entered their territory, and this was possible even in the absence of the permanent corrective mechanism proposed in the draft regulation under examination.

22. Given that economic migrants represent an increasing share of all applicants for international protection, and the EU is proposing measures for accelerated returns of applicants who do not meet the conditions for such protection, we point out that it would be nonsense to continue to permit, on the one hand, irregular access of immigrants to the territory of certain Member States for humanitarian reasons or because it is impossible to apply the legislation governing the crossing of State borders, and on the other hand to have arrangements for accelerated returns of the immigrants allowed to enter the territory. The result would be a virtually permanent circuit that would benefit neither side, but would cause losses both to migrants and to the Member States they reach.

23. We point out that there have been reports of riots by immigrants who had been refused the right to international protection, and that permitting the access of new immigrants from safe countries would increase the number or rioters, making it even more difficult to manage the situation.

We express our concern regarding the EU's capacity to implement its own decisions and rules on returns or the elimination of the option to choose a country of asylum based on preferences.

24. We acknowledge that certain objectives and concrete measures proposed in the Regulation — such as strengthening the system's capacity to designate a single Member State responsible for examining an application for international protection, speeding up the procedures, discouraging abuses and preventing secondary movements of applicants within EU territory, in particular by including clear legal obligations that applicants submit their applications in the Member State of first entry and remain in the Member State designated as responsible, laying down proportionate procedural and substantive consequences in the event of failure to meet those obligations, granting benefits only in the Member State that is responsible and other penalties for non-compliance — are

useful for improving the framework for processing asylum applications.

25. Among the provisions that seem difficult to apply in practice, we mention as an example the procedure for challenging a transfer decision, because the period of 7 days after notification provided for a challenge by the applicant and the subsequent period of 15 days for a court to decide on the matter of the case are too short for certain judicial systems.

26. We recall that, even though respect for human rights is a constant in the Member States that are solid democracies, when they are confronted with antisocial actions repeatedly committed by immigrants they are forced to adopt measures that do not represent them and that seemed impossible to imagine (building a protection fence on the motorway in Calais, for example).

27. We are confident that the Proposal for a Regulation, with the recommendations submitted by the national parliaments and the amendments made after debate in the Council, will contribute to the development of a common European asylum system in line with the values of the European Union and the demands made by the majority of its citizens.

This Decision was adopted by the Chamber of Deputies at its sitting of 4 October 2016 in compliance with Article 76(2) of the Romanian Constitution, republished.

Florin Iordache,
President of the Chamber of Deputies

Bucharest, 4 October 2016
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