

**PARLIAMENT OF ROMANIA
CHAMBER OF DEPUTIES**

REASONED 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 Article 67 and 148 of the Constitution of Romania, republished, Law no. 373/2013 on the cooperation between Parliament and Government regarding European Affairs and Article 160 – 185 of the Procedure Rules of the Chamber of Deputies, republished,

The Chamber of Deputies has adopted the following Decision.

Sole Article

- Having regard to Reasoned Opinion No. 4c-19/2016 adopted by the European Affairs Committee, in its meeting of 20 September 2016, the Chamber of Deputies has adopted the following Decision according to which:

1. Notes that in this case, the conditions laid down by the Treaties for verification by Parliament of subsidiarity are fulfilled, taking into consideration that it is a legislative proposal for which the European Union does not have exclusive competence within the meaning of Article 4 (1), Article 5 (2) TEU and Article 2(6) of the TFEU;

2. Notes the obvious cross-border aspects which would justify an action, at the level of the European Union, to achieve the desired objectives, if they are genuinely in line with the values and principles embodied in the EU Treaties and in the legislation and the major political commitments made by the Member States to achieve the space of liberty, security and justice.

3. Maintains the objections, observations and recommendations in the reasoned opinion of the Chamber of Deputies, further to the examination of the proposal for a Regulation of the European Parliament and of the Council, establishing a crisis relocation mechanism and amending Regulation No 604/2013 of the European Parliament and of the Council, of 26 June 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.

4. Notes that the proposal of the Dublin Regulation Reform occurs three years after adopting it and also that the implementation of the discussed act has been evaluated, upon the demand of the European Commission, without considering that the resulted report has reflected the official position of the respective EU institution.

It also notes the absence of an impact study which should accompany the current Regulation proposal, which should present, in a detailed way, different planned action options.

5. Reasserts the inadequate character of the corrective mechanism for accomplishing the objective of a viable management of the migratory pressures on the European Union, taking into consideration the mentioned objective of the Regulation proposal on rationalizing the norms of Dublin Regulation and completing them with a new corrective distribution mechanism, destined to generate situations where the asylum systems of the Member States are subject to an excessive strain. First of all, the mechanism inefficiency seems to result from the assumption of the adequate character of the asylum procedures, but, on the contrary, the Member States which are subject to a disproportioned pressure will continue to face systemic deficiencies. Such a situation determines the international protection seekers' impossibility of achieving transfers. This confers a permanent character to certain corrective mechanisms which, according to Article 78(3) of the TFEU, must have, by their definition, a temporary character, diminishing the international protection seeker's possibility to express his (her) will regarding the chosen Member State. In this regard, as the Chamber of Deputies has shown in its opinion on the Communication COM (2016)197 – *Towards a Reform of the Common European Asylum System and Enhancing Legal Avenues to Europe*, any potential proposal on the international protection seekers' redistribution must take into consideration the specific character and the capacity of the Member States.

6. Considers that, in the absence of an adequate evaluation, clarifications are necessary regarding the reason why the Early Warning and Preparedness Mechanism for the crisis management has not been activated yet, according to Art. 33 of Dublin Regulation or the Directive 2001/55. Under these circumstances, it would have been preferable to have a previous evaluation of the temporary emergency systems for the transfer, from Italy and Greece, of 160,000 persons who need international protection. This transfer has been established by the two decisions adopted by the EU Council on 14 and 22 September 2015 (Decisions no. 2015/1523 and no. 2015/1601).

7. Appreciates that the corrective distribution mechanism does not also observe the principle of proportionality. It is not clear how a possible reference key, as that of Art. 35 of the Regulation proposal, would contribute to accomplishing the objective of managing the viable migration towards the European Union. The European Commission has not demonstrated how the dispositions which will set up that mechanism, observe the principle of proportionality. The explanatory statements and the preamble are just informing that the stipulations do not exceed what is necessary for reaching the objective of solving the situation in an efficient way.

8. Considers that any proposal concerning the international protection seekers' redistribution among the Member States must take into consideration the specific character and the capacity of the Member States. It is obvious that a corrective distribution mechanism, having an automatic character, ignores the real circumstances existing in each Member State and its infrastructure.

9. Considers that the fair sharing of responsibilities among Member States in the field of migration, cannot start by the financial sanction of some Member States which could face difficulties, in their turn, as stipulated at Art. 37 of the Regulation proposal. According to

the conceptions of the European Union, as the Chamber of Deputies has repeatedly asserted, the solidarity should not be invoked for solving particular situations while the voluntary character is the only guarantee of the success in the management of the disordered immigration and the secondary movements.

10. Notes that the Regulation proposal does not justify the calculus way for the so-called solidarity contribution which would have to be imposed to the Member State which would not be willing to accept an international protection seeker.

11. Considers that the instruments presented in the current proposal are not entirely adequate in order to accomplish the objective of stopping the secondary movements of the third-country nationals. On the one hand, the current Regulation proposal does not show clearly how the secondary movements can be reduced by extending the family member's definition, in comparison to other definitions existing in other acts of the Union's law, so that to include the seeker's brothers or sisters, with the purpose to facilitate their reunion. Also, it is not clear to what extent could be diminished, some of the stimuli of the asylum seekers' secondary movements on the EU territory, by including in the definition, the families which are formed outside the country of origin, and also before their arrival on the territory of the Member State.

12. Considers that the uncertainties which affect the relations between the reforming proposal of Dublin Regulation and the Regulation proposal for setting up a transfer mechanism in crisis situations – COM (2015)450, can lead to the incoherence of the future regulations concerning the common asylum European system. Those uncertainties are generated by the fact that the applicability domain of the two regulations is, to a great extent, common.

13. Considers that, by introducing an obligatory permanent distribution key instead of adopting provisional measures for emergency situations, the Regulation project surpasses the necessary measure for accomplishing the objective, consequently infringing the principles of subsidiarity and proportionality.

14. Considers that the Regulation Proposal has not enough added value and because it infringes the subsidiarity principle, a reasoned opinion should be issued.

This decision was adopted by the Chamber of Deputies at the session of 27 September 2016, pursuant to Article 76(2) of the Romanian Constitution, republished.

The Speaker of
the Chamber of Deputies
Florin IORDACHE
Bucharest, 27 September 2016
No. 81