



## Refugee Crisis – Q&A on Emergency Relocation

Brussels, 22 September 2015

### What is the European Agenda on Migration and what is its state of play?

Tackling migration is one of the [ten political priorities](#) of this Commission. The [European Agenda on Migration](#) develops the political guidelines of President Juncker into tailored initiatives aimed at managing migration better in all its aspects. The Agenda, adopted on 13 May 2015 put forward concrete actions to respond to the immediate crisis and save lives at sea, and proposed structural responses for the medium and long term.

The European Commission has been consistently and continuously working for a coordinated European response on the refugees and migration front.

A [first implementation package](#) on the European Agenda on Migration was adopted on 27 May including a proposal to trigger for the first time Article 78(3) of the Treaty on the Functioning of the European Union in order to urgently relocate 40,000 asylum seekers for the benefit of Italy and Greece; a Recommendation for a resettlement scheme for 20,000 persons from outside the EU; an Action Plan on Smuggling; and the necessary amendments to the EU Budget to reinforce the Triton and Poseidon operations at sea so that more lives can be saved.

A [second implementation package](#) was adopted by the Commission on 9 September, proposing concrete measures to respond to the current refugee crisis and to prepare for future challenges, including:

1. An emergency relocation proposal for 120,000 persons in clear need of international protection from Greece, Hungary and Italy;
2. A crisis relocation mechanism to be inserted into the Dublin Regulation;
3. A common European list of Safe Countries of Origin;
4. Making return policy more effective through a common Return Handbook and an EU Action Plan on Return;
5. A Communication on Public Procurement rules for Refugee Support Measures;
6. A Communication on addressing the external dimension of the refugee crisis;
7. An Emergency Trust Fund for Africa.

[The Extraordinary Justice and Home Affairs Council on 14 September](#) adopted the Decision to relocate 40,000 asylum seekers for the benefit of Italy and Greece and held an initial discussion leading also to first progress on the September-package. Interior Ministers meeting today in another Extraordinary Home Affairs Council agreed on the relocation of 120,000 refugees in clear need of international protection from Italy and Greece and other Member States directly affected by the refugee crisis, on the basis of the Commission's proposal.

### An emergency proposal to relocate 120,000 refugees

#### What did the Commission propose?

On 9 September, the Commission proposed to relocate **120,000 people** in clear need of international protection from **Italy** (15,600), **Greece** (50,400) and **Hungary** (54,000). The relocation would be done according to a mandatory **distribution key** using objective and quantifiable criteria (40% of the size of the population, 40% of the GDP, 10% of the average number of past asylum applications, 10% of the unemployment rate). It applies to nationalities of applicants with an EU-wide average recognition rate of 75% or higher<sup>[1]</sup>. [The European Parliament backed this proposal](#) on 17 September.

This comes in addition to the Commission's [proposal from May to relocate 40,000 people](#) in clear need of international protection from Italy and Greece to other EU Member States, which was adopted by the Extraordinary Home Affairs Council on 14 September.

The EU budget will provide **dedicated funding of €780 million** to support this scheme. Beneficiary Member States of relocation will get €6000 per relocated person, including a 50% pre-financing rate to

ensure that national authorities have means to act very swiftly. Countries benefitting from the relocation will receive €500 for each person relocated to cover transport costs to the Member States of Relocation.

### What did Ministers agree on today?

Ministers agreed to the Commission's proposal to relocate 120,000 people in clear need of international protection during the next two years.

The Commission had initially proposed to relocate 120,000 people from Greece (15,600), Italy (50,400) and Hungary (54,000). As Hungary however does not wish to be included as beneficiary of the emergency relocation scheme, the Council agreed that (an)other Member State(s) confronted with a similarly evolving pressure following a sudden inflow of nationals of third countries could benefit instead. The remaining 54,000 (that under the Commission proposal would have been relocated from Hungary) will after one year also be proportionally relocated from Italy and Greece to other Member States unless the situation on the ground changes justifying that the Commission propose to amend the Council decision in order to include another country/other countries as beneficiaries of the relocation decision.

### What is the relocation scheme breakdown per Member State?

*(This will be amended to take into account the participation of Norway and Switzerland)*

	<b>Italy</b>	<b>Greece</b>	<b>TOTAL</b>
<b>Austria</b>	462	1491	1953
<b>Belgium</b>	579	1869	2448
<b>Bulgaria</b>	201	651	852
<b>Croatia</b>	134	434	568
<b>Cyprus</b>	35	112	147
<b>Czech Republic</b>	376	1215	1591
<b>Estonia</b>	47	152	199
<b>Finland</b>	304	982	1286
<b>France</b>	3064	9898	12962
<b>Germany</b>	4027	13009	17036
<b>Hungary</b>	306	988	1294
<b>Latvia</b>	66	215	281
<b>Lithuania</b>	98	318	416
<b>Luxembourg</b>	56	181	237
<b>Malta</b>	17	54	71
<b>Netherlands</b>	922	2978	3900
<b>Poland</b>	1201	3881	5082
<b>Portugal</b>	388	1254	1642
<b>Romania</b>	585	1890	2475
<b>Slovakia</b>	190	612	802
<b>Slovenia</b>	80	257	337
<b>Spain</b>	1986	6127	8113
<b>Sweden</b>	567	1830	2397
<b>TOTAL</b>	<b>15600</b>	<b>50400</b>	<b>66000</b>

### Will all Member States have to participate?

The United Kingdom and Ireland have – according to the Treaty - an opt-out with the possibility to participate should they so choose, while Denmark has an opt-out without the possibility to participate.

Ireland has opted-in and announced that is ready to relocate 4.000 applicants in clear need of international protection.

Denmark is also ready to take 1000 refugees in the context of the agreement on the relocation of 120,000 (without however being part of the relocation scheme) and Switzerland and Norway as Schengen associated countries have declared their readiness to participate.

### A safeguard clause

The Commission proposed a distribution key for all Member States. If – for justified and objective reasons (such as a natural disaster) which are compatible with the fundamental values of the Union – a

Member State cannot fully take part in the emergency relocation mechanism, the Commission proposed that the Member State will have to make a financial contribution to the EU budget of an amount of 0.002% of its GDP. The European Commission will analyse the reasons notified by the country and take a decision on whether or not they justify the non-participation of a country in the scheme for a maximum of up to 12 months. The financial contributions will be used to finance the efforts undertaken by all other EU countries to cope with the crisis situation. The allocations that were foreseen for Member States which cannot participate because of the above mentioned reasons will be redistributed to the remaining EU countries.

**The Council maintained the temporary safeguard clause** and agreed that a Member State may, in exceptional circumstances and within three months of entry into force of the Decision, notify the Council and the Commission that it is unable to take part in the relocation process of up to 30% of the applicants allocated to it. It must give justified reasons compatible with the fundamental values of the Union. Such exceptional circumstances include, in particular, a situation 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 EU law on asylum. The Commission has to then assess the reasons given and submit proposals to the Council regarding a temporary suspension of the process of up to 30%. Within three months a Member States can notify in exceptional circumstances and giving duly justified reasons that it is unable to relocate up to 30 % of applicants allocated. Where justified, the Commission may propose to extend for this share of applicants the 2-years' time-limit for relocation by up to 12 months.

### **How will the relocation procedure work step-by-step?**

The Decision foresees a swift procedure which shall be completed **not later than two months** from the time of the agreement of a Member State to accept persons from the relocating Member State. There are certain exceptional cases where this timeframe can be extended up to 3.5 months.

The Relocation decision is based on a number of steps that can be grouped into **five different phases**:

#### 1) The **preparatory phase**:

- Nomination of **national contact points** by the relocating country for an exchange of information between the other Member States and EASO.
- Nomination of **liaison officers** by the receiving Member State to the relocating Member State to match the destination country with refugees' qualifications, language skills, family, cultural and social ties, to help integration.
- **Roadmaps to be presented** by the benefiting countries which shall include adequate measures in the area of asylum, first reception and return, enhancing the capacity, quality and efficiency of its systems in these areas as well as measures to ensure appropriate implementation of the emergency relocation; Greece and Italy have already submitted such Roadmaps.
- **Setting up facilities** for identification, registration and fingerprinting of asylum seekers.

2) The **identification stage**: Who will be relocated where? Candidates need to be interviewed and they have to be informed about the conditions for relocation foreseen in the Decision, including on consequences of secondary movements as well as on personal characteristics and qualifications. The aim of this phase is to create a profile for each identified candidate.

3) **Building a pool of candidates**: Member States benefitting from the relocation mechanism have to regularly – at least every 3 months – give indications on the numbers of eligible candidates. The receiving Member States may indicate preferences for certain candidates, with due respect for the principle of non-discrimination. With the assistance of EASO, a potential tool kit with types of candidates for relocation is established.

4) **Matching stage**: Individual profiles are matched with the toolkits developed by EASO. Priority is given to particularly vulnerable applicants.

5) **Procedural steps leading to the actual relocation**: These include the submission of proposed candidates by the country benefitting from relocation (Italy and Greece) for approval by the receiving Member State(s): the approval of candidates by the receiving Member State(s); the written notification of the decision to candidates to be relocated; information to be sent by the country benefitting from relocation to the receiving Member State on the date and time of the transfer and relevant information on the actual transfer.

The transfer of the applicant to the Member State of relocation takes place as soon as possible – normally no later than two months. Member States retain the right to refuse to relocate an applicant only where there are reasonable grounds for regarding him or her as a danger to their national security or public.

## **When does the European Commission expect first relocations?**

The Decision provides that the relocation procedure shall be completed as swiftly as possible and in principle not later than two months from the time of the indication given by the Member State of relocation on the number of applicants. The first relocation transfers should therefore normally start to take place within a month.

## **What is the legal basis for the emergency relocation proposal?**

The legal basis is article 78(3) of the Treaty on the Functioning of the European Union (TFEU) which states that: "In 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. It shall act after consulting the European Parliament".

## **What are the criteria for triggering Article 78(3) TFEU?**

The criteria for triggering Article 78(3) TFEU are defined in the Treaty: one or more Member State(s) must be confronted with an emergency situation, characterised by a sudden inflow of third country nationals. The mechanism is to be triggered in exceptional circumstances when, based on clear and measurable indications, the functioning of the asylum system of a Member State(s) can be endangered by a consistently high of refugees arriving on its territory, and in particular of those in clear need of international protection. A high threshold of urgency and severity of the problem are therefore pre-conditions for the triggering of the mechanism.

## **How was the choice for Italy and Greece made and why did you initially propose to add Hungary?**

Since the beginning of this year, approximately 116 000 migrants arrived in **Italy** in an irregular manner, (including approximately 10 000 irregular migrants who have been registered by local authorities, but have yet to be confirmed in Frontex data). During May and June this year, 34 691 irregular border crossings were detected by Frontex and during July and August 42 356, which means an increase of 20%.

A strong increase was witnessed by **Greece** in 2015, with more than 211 000 irregular migrants reaching the country (including approximately 28 000 irregular migrants who have been registered by local authorities, but have yet to be confirmed in Frontex data). During May and June of this year, 53 624 irregular border crossings were detected by Frontex and during July and August 137 000, which means an increase of 250%.

The change in the demographic makeup of nationalities arriving via the Western Balkans towards Hungary since the beginning of 2015 and the significant increase in arrivals over the summer months, represent a new emergency situation that corresponds to the criteria envisaged under Article 78 (3). The significant increase of arrivals of Syrian nationals via this route suggests that the flows of persons arriving are more than likely to be in need of international protection. The exponential rise in numbers over a short period of time has also hampered Hungary's ability to establish sufficient resources for reception capacity and asylum processes that meets current demands.

More than 145 000 irregular border crossings were detected in **Hungary** in the first eight months of 2015 (including approximately 3 000 irregular migrants who have been registered by local authorities, but have yet to be confirmed in Frontex data). During May and June this year, 53 642 irregular border crossings were detected and during July and August 78 472, which means an increase of 150%.

As a result the Commission has awarded Hungary emergency assistance of almost 7 million EUR under the Asylum Migration and Integration Fund and the Internal Security Fund that can be used to increase the reception capacity for asylum seekers.

## **Which nationals are most likely to benefit from the relocation scheme?**

The relocation mechanism will only apply to those nationals who have an average EU-wide asylum recognition rate equal to or higher than 75%, on the basis of EUROSTAT data for the previous quarter. For 2014, two nationalities had a recognition rate above 75%: Syrians and Eritreans. According to the data for quarter 2 of 2015, the 75% threshold is now passed by **Syrians, Eritreans and Iraqis**. The nationalities falling within the threshold will be updated quarterly on the basis of EUROSTAT figures.

## **Why did the Commission choose the 75% recognition rate?**

The 75% recognition rate threshold has two objectives: to ensure that all applicants who are in clear and urgent need of protection can enjoy their right of protection as soon as possible; and to prevent applicants who are unlikely to qualify for asylum from being relocated and unduly prolonging their stay in the EU.

## **How has the distribution key for relocation been calculated?**

The proposed distribution key is based on:

- a) the **size of the population** (40% weighting),
- b) the total **GDP** (40% weighting),
- c) a corrective factor based on the **average number of asylum applications per 1 million inhabitants** over the previous five years (10% weighting with a 30% cap of the population and GDP effect on the key to avoid disproportionate impact)
- d) a corrective factor based on the **unemployment rate** (10% weighting with a 30% cap of the population and GDP effect on the key to avoid disproportionate effect).

The corrective factors for the average numbers of asylum applications and unemployment rate are applied inversely, meaning that high existing asylum application numbers and a high unemployment rate would result in fewer individuals being relocated to a Member State.

### **Is the distribution key objective?**

The key is based on objective, quantifiable and verifiable criteria and data, with appropriate weighting factors. The factors are straightforward and the information on which they are based is provided by the Member States and Associated States themselves to Eurostat.

### **Is this compatible with the Dublin system?**

The Dublin system, which requires that asylum applications be dealt with by the first country of entry, remains the baseline system.

For relocated persons, the proposed decision entails a limited and temporary derogation from certain provisions of the Dublin Regulation, in particular as regards the criterion for determining the Member State responsible for examining an asylum application. This notably concerns the country to which an asylum seeker or beneficiary of protection would be returned in the case of secondary movements. For the remainder, the Dublin Regulation remains applicable and valid as a general rule for all asylum applications lodged in the European Union.

This means that after a person is relocated from, for example Italy, to another EU Member State, and is granted the right to asylum there, this person only has a legal right to stay in that country. Should the person move on to another EU Member State, the Dublin system would provide for his or her return to their country of legal residence.

The Commission has already launched an evaluation of the Dublin system and will consider a possible revision of the Dublin Regulation on that basis.

### **How will 'secondary movements' be avoided? Will people not just move on to another EU Member State?**

When an asylum-seeker is relocated to another EU country, they only have the right to legally reside in that country and cannot move on to another EU country without authorisation.

If they do, and are apprehended, they will be transferred back to the country of legal residence under the rules of the Dublin Regulation.

No person will be relocated from the most affected Member States without first having had their fingerprints taken, meaning a person's country of legal residence can be quickly verified.

The fact that a relocated person will only be entitled to the rights attached to international protection in the Member State of relocation will also serve as a disincentive for secondary movements.

The Commission has also recommended to Member States that they consider imposing reporting obligations on relocated persons applying for asylum and only providing material reception conditions (providing food, housing and clothing only in kind).

### **For further information**

[Fact sheet relocation](#)

[Legislative documents European Agenda on Migration](#)

[Directorate General for Migration and Home Affairs Website](#)

[1] On the basis of current data, this would thus apply to applicants from Syria, Iraq and Eritrea.

MEMO/15/5698

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