

DECISIONS

COUNCIL DECISION (EU) 2016/1754

of 29 September 2016

amending Decision (EU) 2015/1601 establishing provisional measures in the area of international protection for the benefit of Italy and Greece

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 78(3) thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Whereas:

- (1) On the basis of Article 78(3) of the Treaty on the Functioning of the European Union (TFEU), the Council adopted two Decisions establishing provisional measures in the area of international protection for the benefit of Italy and Greece. Under Council Decision (EU) 2015/1523 ⁽²⁾, 40 000 applicants for international protection are to be relocated from Italy and Greece to the other Member States. Under Council Decision (EU) 2015/1601 ⁽³⁾, 120 000 applicants for international protection are to be relocated from Italy and Greece to other Member States.
- (2) In accordance with Article 4(2) of Decision (EU) 2015/1601, from 26 September 2016, 54 000 applicants are to be relocated from Italy and Greece to the territory of other Member States, unless, pursuant to Article 4(3) of that Decision, by that date the Commission makes a proposal to allocate them to a particular beneficiary Member State confronted with an emergency situation characterised by a sudden inflow of persons.
- (3) Article 1(2) of Decision (EU) 2015/1601 provides that the Commission is to keep under constant review the situation regarding massive inflows of third country nationals into Member States. The Commission is to submit, as appropriate, proposals to amend that Decision in order to take into account the evolution of the situation on the ground and its impact upon the relocation mechanism, as well as the evolving pressure on Member States, in particular frontline Member States.
- (4) With the aim of ending irregular migration from Turkey to the EU, on 18 March 2016 ⁽⁴⁾, the EU and Turkey agreed on a number of action points, including to resettle, for every Syrian readmitted by Turkey from Greek islands, another Syrian from Turkey to the Member States, within the framework of the existing commitments. Resettlement under that mechanism will take place, in the first instance, by honouring the commitments taken by Member States in the conclusions of Representatives of the Governments of Member States meeting within the Council on 20 July 2015. Any further need for resettlement is to be carried out through a similar voluntary arrangement up to a limit of an additional 54 000 persons by allowing for any resettlement commitment undertaken in the framework of that arrangement to be offset against non-allocated places under Decision (EU) 2015/1601.

⁽¹⁾ Not yet published in the Official Journal.

⁽²⁾ Council Decision (EU) 2015/1523 of 14 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and of Greece (OJ L 239, 15.9.2015, p. 146).

⁽³⁾ Council Decision (EU) 2015/1601 of 22 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and Greece (OJ L 248, 24.9.2015, p. 80).

⁽⁴⁾ EU-Turkey Statement of 18 March 2016.

- (5) Resettlement, humanitarian admission or other forms of legal admission from Turkey under national and multi-lateral schemes can be expected to relieve the migratory pressure on Member States which are beneficiaries of relocation under Decision (EU) 2015/1601 by providing a legal and safe pathway to enter the Union and by discouraging irregular entries. Therefore, the solidarity efforts of Member States consisting in voluntarily admitting to their territory Syrian nationals present in Turkey who are in clear need of international protection should be taken into account in relation to the 54 000 applicants for international protection referred to above. The number of persons so admitted from Turkey by a Member State should be deducted from the number of persons to be relocated to that Member State under Decision (EU) 2015/1601 in relation to those 54 000 applicants.
- (6) Mechanisms for admission may include resettlement, humanitarian admission or other legal pathways for admission of Syrian nationals present in Turkey who are in clear need of international protection, such as humanitarian visa programmes, humanitarian transfer, family reunification programmes, private sponsorship projects, scholarship programmes, labour mobility schemes, and others.
- (7) The commitments that Member States undertook as part of the resettlement scheme agreed in the Conclusions of the Representatives of the Governments of the Member States meeting within the Council of 20 July 2015 should not be affected by this Decision and should not count towards meeting the obligations under Decision (EU) 2015/1601. Therefore, a Member State which chooses to meet its obligations under Decision (EU) 2015/1601 by admitting Syrians present in Turkey through resettlement, should not be able to count that effort as constituting part of its commitment under the 20 July 2015 resettlement scheme.
- (8) To ensure a proper monitoring of the situation, a Member State should, once it chooses to use this option, report on a monthly basis to the Commission on Syrians present in Turkey admitted to its territory under the option provided for in this amendment specifying under which scheme, national or multilateral, the person has been admitted and the form of legal admission.
- (9) Since the objectives of this Decision cannot be sufficiently achieved by the Member States but can rather, by reason of the scale and effects of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union (TEU). In accordance with the principle of proportionality, as set out in that Article, this Decision does not go beyond what is necessary in order to achieve those objectives.
- (10) This Decision respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union.
- (11) In accordance with Articles 1 and 2 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the TEU and to the TFEU, and without prejudice to Article 4 of that Protocol, the United Kingdom is not taking part in the adoption of this Decision and is not bound by it or subject to its application.
- (12) In accordance with Articles 1 and 2 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the TEU and to the TFEU, and without prejudice to Articles 4 and 4a of that Protocol, Ireland is not taking part in the adoption of this Decision and is not bound by it or subject to its application.
- (13) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the TEU and to the TFEU, Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application.
- (14) In view of the urgency of the situation, this Decision should enter into force on the day following that of its publication in the *Official Journal of the European Union*,

HAS ADOPTED THIS DECISION:

Article 1

In Article 4 of Decision (EU) 2015/1601, the following paragraph is inserted:

'3a. In relation to the relocation of applicants referred to in point (c) of paragraph 1, Member States may choose to meet their obligation by admitting to their territory Syrian nationals present in Turkey under national or multilateral legal admission schemes for persons in clear need of international protection, other than the resettlement scheme which was the subject of the Conclusions of the Representatives of the Governments of the Member States meeting within the Council of 20 July 2015. The number of persons so admitted by a Member State shall lead to a corresponding reduction of the obligation of the respective Member State.

Article 10 shall apply *mutatis mutandis* for every such legal admission leading to a reduction of the relocation obligation.

Member States, which choose to use the option provided in this paragraph, shall report monthly to the Commission on the number of persons legally admitted for the purposes of this paragraph, indicating the type of scheme under which the admission has taken place and the form of legal admission used.'

Article 2

1. This Decision shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.
2. This Decision shall apply until 26 September 2017.
3. This Decision shall apply to all the persons who, for the purposes of paragraph 3a of Article 4 of Decision (EU) 2015/1601, have been admitted from the territory of Turkey by the Member States as from 1 May 2016.

Done at Brussels, 29 September 2016.

For the Council
The President
P. ŽIGA
