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NOTE

From:	Presidency
To:	Delegations
No. prev. doc.:	11313/16
Subject:	Proposal for a Regulation of the European Parliament and of the Council establishing a Union Resettlement Framework and amending Regulation (EU) No 516/2014 of the European Parliament and the Council (First reading)

At its meetings on 2 December 2016 and 17 January 2017, the Asylum Working Party examined the proposal for a Union Resettlement Framework.

The text of the proposal in Annex contains modifications suggested by the Presidency in relation to all articles except for Article 17 and the recitals (placed in square brackets, to be discussed at a later stage).

Suggested modifications are indicated as follows: added text is in **bold** and deleted text is in ~~strikethrough~~.

Comments made by delegations on the Commission proposal text, orally and in writing, appear in the footnotes of the Annex.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

establishing a Union Resettlement Framework and amending Regulation (EU) No 516/2014 of the European Parliament and the Council¹

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 78(2)(d) and (g) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee²,

Having regard to the opinion of the Committee of the Regions³,

Acting in accordance with the ordinary legislative procedure,

¹ **AT:** reservation on the proposal. **NL:** modify title as follows: "Proposal for a Regulation of the European Parliament and the Council establishing a Union ~~Resettlement Framework for Resettlement and other forms of humanitarian admission~~ and amending Regulation (EU) No 516/2014 of the European Parliament and the Council". To be amended throughout the entire document. **PL:** the title should clearly indicate the voluntary participation in the Framework established by this Regulation and clarify whether the proposed instrument concerns resettlement only or also other forms of humanitarian admission: "Proposal for a Regulation of the European Parliament and of the Council establishing a Union *Voluntary Resettlement Framework and other Humanitarian Admission Programmes Framework* and amending Regulation (EU) No 516/2014 of the European Parliament and the Council." **BG, CZ, ES, FI, HU, IE, PL, SE, SI:** scrutiny reservation on the proposal. **HU, SI:** parliamentary reservation

² OJ C , , p. .

³ OJ C , , p. .

Whereas:

- [(1) The Justice and Home Affairs Council Conclusions of 10 October 2014 acknowledged that "while taking into account the efforts carried out by Member States affected by migratory flows, all Member States should give their contribution to [resettlement] in a fair and balanced manner."⁴
- (2) In its Communication on a European Agenda on Migration⁵ of 13 May 2015 the Commission set out the need for a common approach to granting protection to displaced persons in need of protection through resettlement.
- (3) On 8 June 2015 the Commission addressed a Recommendation on a European Resettlement Scheme⁶ to the Member States, based on an equitable distribution key. It was followed by Conclusions of the Representatives of the Governments of the Member States meeting within the Council of 20 July 2015 to resettle, through multilateral and national schemes, 22 504 persons in clear need of international protection⁷. The resettlement places were distributed between Member States and Dublin Associated States according to the commitments set out in the Annex to the Conclusions.
- (4) On 15 December 2015, the Commission addressed a Recommendation for a Voluntary Humanitarian Admission Scheme with Turkey⁸ to the Member States and Associated States recommending that participating States admit persons displaced by the conflict in Syria who are in need of international protection. According to the EU-Turkey Statement of 18 March 2016 a Voluntary Humanitarian Admission Scheme will be activated once irregular crossings between Turkey and the EU are ending or at least have been substantially and sustainably reduced. Member States will contribute on a voluntary basis to this scheme.

⁴ Council Conclusions on "Taking action to better manage migratory flows", Justice and Home Affairs Council meeting, 10 October 2014.

⁵ COM(2015) 240 final.

⁶ C(2015) 3560 final.

⁷ 11097/15.

⁸ C(2015) 9490.

- (5) According to the EU-Turkey Statement of 18 March 2016 all new irregular migrants crossing from Turkey into Greek islands as from 20 March 2016 would be returned to Turkey. For every Syrian being returned to Turkey from Greek islands, another Syrian will be resettled from Turkey to the Union taking into account the United Nations Vulnerability Criteria. In May 2016, the Member States and Dublin Associated States and Turkey reached a common understanding on Standard Operating Procedures guiding the implementation of this resettlement scheme.
- (6) On 6 April 2016, the Commission adopted a Communication Towards a Reform of the Common European Asylum System and enhancing legal avenues to Europe⁹ in which it announced it would set out a proposal for a structured resettlement system framing the Union's policy on resettlement and providing a common approach to safe and legal arrival in the Union for persons in need of international protection.
- (7) On 12 April 2016, the European Parliament adopted a resolution on the Situation in the Mediterranean and the need for a holistic EU approach to Migration¹⁰ underlining the need for a permanent Union-wide resettlement programme, providing resettlement for a meaningful number of refugees, having regard to the overall number of refugees seeking protection in the Union.
- (8) Building on the existing initiatives, a stable and reliable Union Resettlement Framework should be established for the resettlement of persons in need of international protection to be implemented in accordance with annual Union resettlement plans and targeted Union resettlement schemes which effectively deliver on Member States' concrete commitments.

⁹ COM(2016) 197 final.

¹⁰ 2015/2095(INI).

- (9) Such a framework is a necessary part of a well-managed migration policy to reduce divergences among national resettlement practices and procedures, provide for the legal and safe arrival to the territory of the Member States of third-country nationals and stateless persons in need of international protection, help reduce the risk of a large-scale irregular inflow of third-country nationals and stateless persons to the territory of the Member States and thereby reducing the pressure of spontaneous arrivals on the Member States' asylum systems, be an expression of solidarity with countries in regions to which or within which a large number of persons in need of international protection has been displaced by helping to alleviate the pressure on those countries, help achieve Union's foreign policy objectives by increasing the Union's leverage vis-à-vis third countries, and effectively contribute to global resettlement initiatives through speaking with one voice in international fora and with third countries.
- (10) In order to help reduce the risk of a large-scale irregular inflow of third-country nationals and stateless persons to the territory of the Member States, show solidarity with countries in regions to which or within which a large number of persons in need of international protection has been displaced by helping to alleviate the pressure on those countries, and help achieve the Union's foreign policy objectives, the regions or third countries from which resettlement is to occur should fit in a tailored engagement with third countries to better manage migration as foreseen in the Commission's Communication of 7 June 2016 on Establishing a new Partnership Framework with third countries under the European Agenda on Migration¹¹.
- (11) In order to reduce divergences among the national resettlement practices and procedures, common standard procedures and common eligibility criteria and exclusion grounds for the selection should be laid down, as well as a common protection status to be granted to resettled persons.

¹¹ COM(2016) 377 final.

- (12) The common standard procedures should build on the existing resettlement experience and standards of the Member States, in particular the Standard Operating Procedures guiding the implementation of the resettlement scheme with Turkey set out in the EU-Turkey Statement of 18 March 2016. The Union Resettlement Framework should allow the use of two types of standard resettlement procedures.
- (13) Both types of procedure consist of the following stages: identification, registration, assessment and decision.
- (14) An ordinary procedure should be established allowing for a full assessment of the international protection needs of third-country nationals or stateless persons.
- (15) An expedited procedure should be established with the same level of security checks as in the ordinary procedure. However, in the expedited procedure, the assessment of the international protection needs of third-country nationals or stateless persons should be limited to an assessment of their eligibility for subsidiary protection without assessing their qualification for refugee status¹².
- (16) The resettlement procedure should be concluded as soon as possible in order to discourage persons in need of international protection to use irregular ways to enter the European Union to seek protection. At the same time it should ensure that Member States have sufficient time for a full and adequate examination of each case. The time-limits should correspond to what is necessary to make the different types of assessment foreseen for the ordinary and expedited procedure.
- (17) Any personal data collected for the purpose of the resettlement procedure should be stored for a maximum period of five years from the date of resettlement. Given that third-country nationals or stateless persons who have already been resettled by one Member State or who during the last five years refused to resettle to a Member State should be excluded from resettlement to another Member State, that period should be considered a necessary period for the storage of personal details, including fingerprints and facial images¹³.

¹² **IT, NL:** delete recital.

¹³ **CZ:** the storage period should be of 10 years which is compatible with the Eurodac Regulation.

- (18) The choice of the resettlement procedure should be made for each targeted Union resettlement scheme. An expedited procedure might be warranted on humanitarian grounds or in case of urgent legal or physical protection needs.¹⁴
- (19) There is no subjective right to be resettled.
- (20) In order to allow for supplementing the rules which govern the procedure to be applied in targeted Union resettlement schemes, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission to adapt the procedure to the circumstances in the third country from which resettlement takes place such as determining that third country's role in the procedure. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016¹⁵. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.¹⁶
- (21) In order to ensure uniform conditions for the implementation of the Union Resettlement Framework, implementing powers should be conferred on the Council for establishing the annual Union resettlement plan, fixing the maximum total number of persons to be resettled, the details about the participation of the Member States in the plan and their contributions to the total number of persons to be resettled, as well as overall geographical priorities.

¹⁴ **IT, NL:** delete recital.

¹⁵ OJ L123, 12.05.2016, p. 1.

¹⁶ **NL:** when merging articles 7 and 8 (or deleting art.8) this text should be deleted or at least amended accordingly.

- (22) These powers should be exercised on a proposal from the Commission on the maximum total number of persons to be resettled and overall geographical priorities. The Commission should make its proposal simultaneously with its proposal on the draft Union annual budget. The Council should aim to adopt the proposal within two months. The Commission and the Council should take into account the discussions within the High-Level Resettlement Committee.
- (23) In order to ensure uniform conditions for the implementation of the Union Resettlement Framework, the Commission should be empowered to establish targeted Union resettlement schemes laying down the precise number out of the total number of persons to be resettled and participation of the Member State, consistent with the annual Union Resettlement plan. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers¹⁷. The examination procedure should be used for establishing targeted Union resettlement schemes given that those schemes have substantial implications. The Commission should aim to establish targeted Union resettlement schemes as soon as possible after the adoption of the annual Union resettlement plan and whenever necessary during the period covered by the annual Union resettlement plan. The Commission should take into account the discussions within the High-Level Resettlement Committee.¹⁸
- (24) Each targeted Union resettlement scheme should determine which standard procedural rules should apply to its implementation. It should in addition set out local cooperation arrangements where and as appropriate to facilitate its implementation.¹⁹

¹⁷ OJ L 55, 28.2.2011, p. 13.

¹⁸ **CZ:** replace "precise" with "maximum". **NL:** when merging articles 7 and 8 (or deleting art.8) this text should be deleted or at least amended accordingly.

¹⁹ **NL:** when merging articles 7 and 8 (or deleting art.8) this text should be deleted or at least amended accordingly.

- (25) Resettled persons should be granted international protection. Accordingly, the provisions on the content of international protection contained in the asylum acquis should apply as of the moment when resettled persons arrive on the territory of the Member States, including the rules to discourage secondary movement of beneficiaries of international protection.²⁰
- (26) In line with the Commission proposal for a Regulation 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)²¹, in order to comprehensively reflect the efforts of each Member State, the number of persons effectively resettled to a Member State should be added to the number of applications for international protection for the purpose of calculating the corrective allocation mechanism proposed by the Commission.
- (27) Given the expertise of UNHCR in facilitating the different forms of admission of persons in need of international protection from third countries, to which they have been displaced, to Member States willing to admit them, UNHCR should continue to play a key role in resettlement efforts conducted under the Union Resettlement Framework. In addition to UNHCR, other international actors such as the International Organisation for Migration (IOM) should be called upon to assist Member States in the implementation of the Union Resettlement Framework.
- (28) [The European Union Agency for Asylum] should assist Member States in the implementation of Union Resettlement Framework in accordance with its mandate.

²⁰ **NL:** agrees with COM, and considers it important that this is stipulated in the entire document. However, NL is very worried that resettled refugees that have been awarded subsidiary protection status will be able to start proceedings to obtain a refugee status. Because, nowhere in the current CEAS proposals it is provided for that resettled refugees cannot start an asylum procedure once in the receiving MS. This would go against and annihilate one of the biggest advantages of resettlement as such, which is that the entire procedure is passed through abroad and immediately upon arrival a permit is given and the resettled refugee can start his/her new life; without having to await lengthy (and costly) legal proceedings. This would make resettlement less appealing.

²¹ COM(2016) 270 final.

- (29) A High-Level Resettlement Committee should be established to allow for broad consultations with all stakeholders on the implementation of the Union Resettlement Framework.
- (30) Resettlement efforts by the Member States under this Regulation should be supported by appropriate funding from the Union's budget. To enable a proper and sustainable functioning of the resettlement schemes amendments are necessary to Regulation (EU) No 516/2014 of the European Parliament and of the Council²²²³.
- (31) This Regulation does not affect the ability of the Member States to adopt or implement national resettlement schemes, which do not jeopardise the attainment of the Union's objectives under this Regulation²⁴, for example where they contribute an additional number of resettlement places to targeted Union resettlement schemes established under this Regulation going beyond their contribution to the maximum number of persons to be resettled under the annual Union resettlement plan.²⁵

²² Regulation (EU) No 516/2014 of the European Parliament and of the Council of 16 April 2014 establishing the Asylum, Migration and Integration Fund, amending Council Decision 2008/381/EC and repealing Decisions No 573/2007/EC and No 575/2007/EC of the European Parliament and of the Council and Council Decision 2007/435/EC (OJ L 150, 20.05.2014, p. 168).

²³ **FR:** proposal: "Resettlement *and humanitarian admission* efforts by the Member States under this Regulation should be supported by appropriate funding from the Union's budget. To enable a proper and sustainable functioning of the resettlement *and humanitarian admission* schemes amendments are necessary to Regulation (EU) No 516/2014 of the European Parliament and of the Council."

²⁴ **FR:** proposes deleting part of the sentence: "~~which do not jeopardise the attainment of the Union's objectives under this Regulation~~. FR believes this sentence is redundant, and misleading as national efforts could be deterred. Proposes new wording: "for example where they contribute an additional number of resettlement places to ~~targeted~~ Union *plans for* resettlement schemes *and other forms of humanitarian admission* established under this Regulation ~~going beyond their contribution to the maximum number of persons to be resettled under the annual Union resettlement plan~~."

²⁵ **CZ:** clarification required on the meaning of "which do not jeopardise the attainment of the Union's objectives". It should be clearly stated in the regulation what (and who) determines whether national resettlement schemes jeopardise the Union's objectives. **NL:** does "*which do not jeopardise the attainment of the Union's objectives*" suggest that MS would not be entirely free in their national resettlement efforts? Given that the main objective is to increase resettlement efforts in general, this would not be encouraging in that respect. Delete "*annual*".

- (32) Complementarity with ongoing resettlement and humanitarian admission initiatives undertaken in the Union framework should be ensured.
- (33) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union and should therefore be applied in a manner consistent with these rights and principles, including as regards the rights of the child, the right to respect for family life and the general principle of non-discrimination.
- (34) Any processing of personal data by the authorities of the Member States within the framework of this Regulation should be conducted in accordance with Regulation (EU) No 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).
- (35) Any processing of personal data by [the European Union Agency for Asylum] within the framework of this Regulation should be conducted in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council,²⁶ as well as [Regulation (EU) No XXX/XXX (EU Asylum Agency Regulation)²⁷] and it should respect the principles of necessity and proportionality.
- (36) The application of this Regulation should be reviewed simultaneously with the review of Regulation (EU) No 516/2014 establishing the Asylum, Migration and Integration Fund.
- (37) [In accordance with Article 3 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 Treaty on European Union and to the Treaty on the Functioning of the European Union, those Member States have notified their wish to take part in the adoption and application of this Regulation]

²⁶ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

²⁷ OJ L [...], [...], p. [...].

OR

- (37) [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 Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, those Member States are not taking part in the adoption of this Regulation and are not bound by it or subject to its application.]

OR

- (37) [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 Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, the United Kingdom is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.

- (37a) In accordance with Article 3 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 Treaty on European Union and to the Treaty on the Functioning of the European Union, Ireland has notified (, by letter of ...) its wish to take part in the adoption and application of this Regulation.]

OR

- (37) [In accordance with Article 3 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 Treaty on European Union and to the Treaty on the Functioning of the European Union, the United Kingdom has notified (, by letter of ...) its wish to take part in the adoption and application of this Regulation.

- (37a) 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 Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, Ireland is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.]
- (38) In accordance with Articles 1 and 2 of the 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 Regulation and is not bound by it or subject to its application,]

HAVE ADOPTED THIS REGULATION²⁸:

²⁸ **DE:** supports the idea of a Union Resettlement Framework. It should be designed in an encouraging manner such as MS will be motivated to increase pledges. A Regulation (in this design) might discourage MS to increase numbers or to start a resettlement programme. Well-functioning national resettlement programmes might be impeded, if there will be no funding for those in future and the particular MS is not able or willing to accept the preconditions of admission under the Regulation. DE advocates to fund national programs as well (AMIF). To give an example: the structure of the COM proposal is rather unique - MS can decide about their participation in the proposed resettlement schemes and plans on a voluntary basis; however, the Resettlement plan will be adopted by the Council with the regular majority vote. As a result, MS who don't engage in resettlement will decide about resettlement measures of other Member States? And, as it breaks down to the resettlement schemes which specify the details of measures for the next year, it will be the Commission to decide how many people and where from shall be resettled in a certain MS, while resettlement is still voluntary?

Article 1
*Subject matter*²⁹

²⁹ **AT:** reservation on the article; renumber the current para as (1) and add two more paras as follows: "**(2) *The Participation of Member States will be on a voluntary basis. There is no subjective right of a third country national or stateless person to be resettled.*** (3) ***Whenever a Member State decides voluntarily not to admit third country nationals or stateless persons within this Regulation, this state shall not participate in the procedure set out in Article 7.***" A horizontal approach should be followed, including the articles in the other proposals that make a reference to resettlement, which should be voluntary. **BE:** supports AT on the horizontal approach (especially links with Eurodac). **FR:** modify text as follows: "This Regulation establishes a Union ***Framework for Resettlement and other forms of humanitarian admission*** ~~Framework for the admission~~ of third- country nationals and stateless persons to the territory of the Member States with a view to granting them international protection." This proposal aims at covering three major concerns for France: 1) Resettlement should be clearly distinguished from other forms of humanitarian admission. 2) volumes of "other forms of humanitarian admission" should be taken into account in the contributions of MS to the EU framework and the EU contribution globally, as they tend to fulfilling the same objective. 3) however, whereas FR supports the standardization of procedures at EU level regarding resettlement, it believes that it should be possible that humanitarian admission, given the variety of forms it takes, follows either the EU procedure or national procedures. **NL:** modify text as follows: "This Regulation establishes a Union ***Framework for Resettlement and other forms of humanitarian admission*** ~~Framework for the admission~~ of third-country nationals and stateless persons to the territory of the Member States with a view to granting them international protection." In case 'other forms of humanitarian admission' under this Framework can also result in other statuses than international protection status, this wording should be amended accordingly. Suggestion could be to add: "***or any other status which offers similar rights and benefits under national and Union law as international protection under the terms of the Qualification Regulation***". DE has suggested to merge article 1 and 3. This could be an option, as long as there is a clear distinction between resettlement and humanitarian admission and it is clear that humanitarian admission is not covered by EU procedures. **PL:** modify as follows: "This Regulation establishes a Union ***Voluntary Resettlement and other Humanitarian Admission Programmes Framework*** for the admission of third-country nationals and stateless persons to the territory of the Member States with a view to granting them international protection." **COM:** the overall aim is to increase the number of resettled persons and to create an incentive for MS who do not have such schemes, to start doing it. All MS will take part in the decision-making. Link with Eurodac is valid; maybe later a mention could be made in the Eurodac text. **BG, CZ, FR, IE, LU, LV, PL, SI:** resettlement should be voluntary.

1. This Regulation:³⁰
 - a) establishes a Union Resettlement Framework for the admission of third-country nationals and stateless persons to the territory of the Member States with a view to granting them international protection **as defined in Article 2 (1) of Regulation (EU) XXX/XXX [Qualification Regulation]** (“international protection”); and
 - b) **lays down rules on the resettlement of third-country nationals and stateless persons to the territory of the Member States.**³¹
2. **This regulation does not establish a right for third country nationals or stateless persons to be resettled or an obligation by Member States to resettle them.**

³⁰ **DE:** the legal form (Regulation) is questionable. Participation in the resettlement scheme is voluntary. In this light pledges might presumably decrease if MS are too much constricted. Proposal: Directive (as the appropriate and sufficient legal form) or enhanced cooperation (Art. 326 TFEU). **LT:** supports DE regarding the choice of a legal instrument (opinion of CLS needed); insert "voluntary" before Union resettlement framework. **COM:** confident that a regulation is the best option because of its operational nature. **HU:** the legal basis and the choice of instrument are not appropriate.

³¹ **FR,NL:** add the following sentence: "*Other forms of humanitarian admission that are part of the Union Framework shall follow national procedures*"

Article 2
Resettlement³²

For the purposes of this Regulation ‘resettlement’ means the admission of third-country nationals and stateless persons in need of international protection from a third country to which or within which they have been displaced to the territory of the Member States with a view to granting them international protection.³³

³² **AT:** reservation on the article; change the title to "Definitions", renumber the current para as (1) and add one more para as follows: "(2) ***‘Resettled person’ means a person subject to the process of resettlement whereby, on a request from the United Nations High Commissioner for Refugees (‘UNHCR’) based on a person’s need for international protection, third-country nationals are transferred from a third country and established in a Member State where they are permitted to reside with one of the following statuses: (i) ‘refugee status’ within the meaning of point (e) of Article 2 of Directive 2011/95/EU; (ii) ‘subsidiary protection status’ within the meaning of point (g) of Article 2 of Directive 2011/95/EU.***" Delete text in Art 2 (q) of Dublin Regulation and make reference to it here; this proposal is the right place to define the aspects of resettlement. **CZ, DE, FR, SE:** scrutiny reservation on the article. **NL:** change the title to "*Definitions*". **DE, FR, EE, EI, EL, ES, FI, IT, LT, NL, PL,PT, SE:** the inclusion of IDPs and the broadening of the definition is problematic. **PT:** reservation on the article. **COM:** IDPs included because they have similar protection needs

³³ **NL** suggest drafting as follows: ***For the purposes of this Regulation, the following definitions apply: (a) ‘resettlement’ means, the admission of third-country nationals and stateless persons in need of international protection from a third country to which or within which they have been displaced to the territory of the Member States with a view to granting them international protection. upon referral from the UNHCR the transfer of third country nationals and stateless persons in need of international protection from a third country to which they have been displaced to the territory of a Member State that has agreed to admit them, with a view to granting them a status provided in the Qualification Regulation or an equivalent status ; (b) ‘other forms of humanitarian admission’ means the admission of third-country nationals or stateless persons in need of international protection from a third country to which or within which they have been displaced through a process other than resettlement within the meaning of this Regulation, bases on national procedures.***"
Under (a) either the UNHCR definition or the AMIF definition could be used. In case of the latter (AMIF), NL would suggest not to spell out the two statuses (refugee- and subs. status), but merge them into ‘international protection under the terms of the Qualification Regulation’:

Article 3
Union Resettlement Framework³⁴

~~A Union Resettlement Framework is hereby established.~~³⁵

~~It lays down rules on the resettlement of third-country nationals and stateless persons to the territory of the Member States.~~³⁶

The Union Resettlement Framework shall:³⁷

- a) provide for the legal and safe arrival of third-country nationals and stateless persons in need of international protection to the territory of the Member States³⁸;
- aa) **contribute to international resettlement initiatives;**³⁹
- ab) **contribute to alleviating the pressure on third countries in regions to which a large number of persons in need of international protection has been displaced;**

³⁴ **DE:** Art 3 should be merged with Art 1 (contains general clarifications about the aim of the framework). **NL:** modify the title as follows: "Union ~~Resettlement~~ Framework ~~for resettlement and other forms of humanitarian admission~~"

³⁵ **FR, NL:** modify this sentence as follows: "A Union ~~Resettlement~~ Framework *for resettlement and other forms of humanitarian admission* is hereby established." **SE:** important to keep the focus on resettlement as a tool for protection and a durable solutions for refugees, supported by protection considerations including vulnerability criteria. All Member States should contribute to the resettlement of refugees in a spirit of solidarity.

³⁶ *Moved to article 1. b)*

³⁷ **FR, NL:** delete "resettlement". NL would welcome slightly more balance in the wording between the humanitarian protection element and the strategic use of this framework. Several MS, as well as EP, NGO's and UNHCR advocate this also. Perhaps adding a first paragraph (a) "*provide for international protection and a solution to eligible third country nationals and stateless persons who cannot return to their country of origin nor integrate in the country to which they have been displaced*". This could stipulate the protection- as well as the strategic element (relieving pressure in the region).

³⁸ **FR:** modify this sentence as follows: "provide for *a durable solution, as well as* a the legal and safe arrival, ~~for~~ of third-country nationals and stateless persons in need of international protection to the territory of the Member States".

³⁹ **DE:** this should be letter (a), the rest of the letters should be renumbered accordingly. Scrutiny reservation, **NL:** add "and related" before initiatives. **PL:** add "other humanitarian admission initiatives" in the end.

b) contribute to ~~the reduction of~~ **reducing** the risk of a large-scale irregular inflow of third-country nationals and stateless persons in need of international protection to the territory of the Member States.;⁴⁰

ba) **contribute to reducing the risk of onward movements from the territory of the Member State to which a person has been resettled to the territory of another Member State.**

c) ~~contribute to international resettlement initiatives.~~⁴¹

Article 4

*Regions or third countries from which resettlement is to occur*⁴²

1. **In order to determine** ~~In determining~~ the regions or third countries from which resettlement shall occur ~~within the Union Resettlement Framework~~, in accordance with the implementing acts referred to in Articles 7 and 8, the following factors shall be taken into consideration:

- a) **taking into account the UNHCR Projected Global Resettlement Needs**, the number of persons in need of international protection displaced to ~~or within~~ a third country; ~~and any onward movement of those persons to the territory of the Member States~~⁴³;
- b) complementarity with financial and technical assistance provided to third countries to which ~~or within which~~ persons in need of international protection have been displaced;⁴⁴

⁴⁰ **IT:** add "*in the long term*" at the beginning of letter (b).

⁴¹ *moved to aa)*

⁴² **DE, EL, FR, SE:** scrutiny reservation on the article. **DE:** the title of Art. 4 should read as follows: "***Determination of r***Regions or third countries from which resettlement is to occur". Furthermore, MS may determine third countries from which resettlement is to occur independently. **FR, NL:** modify the title as follows: "Regions or third countries from which resettlement ***or other forms of humanitarian admission*** is to occur".

⁴³ **PT:** reservation.

⁴⁴ **DE:** does this mean that the different types of support shall be provided as a package? Or does this mean that states which benefit from one might not benefit from another type of support? Maybe further initiatives - like the EIP - could also be considered. **PT:** reservation.

c) the Union's overall relations with the third country or countries from which resettlement occurs, ~~and with third countries in general,~~⁴⁵ **and**

ca) the scale and content of commitments to resettlement undertaken by third countries. [former e)]

d) [moved to 2.b)]

2. In addition to the factors referred to paragraph 1, the following factors may be taken into consideration:

a) the risk of onward movement of persons in need of international protection from a region or third country to the territory of the Member States; or

b) [former d)] a third country's effective cooperation with the Union in the area of migration and asylum, including:

(i) reducing the number of third-country nationals and stateless persons irregularly crossing the border into the territory of the Member States coming from that third country;

(ii) creating the conditions for the use of the first country of asylum and safe third country concepts for the return of asylum applicants who have irregularly crossed the border into the territory of the Member States coming from or having a connection with the third country concerned;⁴⁶

⁴⁵ **DE** (comment also valid for letter (d)): supports the establishment of a foreign-policy agenda tool. But humanitarian aspects should play an appropriate role when it comes to resettlement. What if there are urgent resettlement needs in a third country which is not in line with those preconditions? What if a third country only fulfils a certain part of the requirements?

⁴⁶ **DE:** scrutiny reservation; the purpose of this provision should be clarified - this could be more detailed in the recitals. **BE:** reservation regarding APR.

- (iii) increasing the capacity for the reception and protection of persons in need of international protection staying in that country, including through the development of an effective asylum system; or⁴⁷
- (iv) increasing the rate of readmission of third-country nationals and stateless persons irregularly staying in the territory of the Member States such as through the conclusion and effective implementation of readmission agreements⁴⁸;

e) ~~the scale and content of commitments to resettlement undertaken by third countries.~~ [moved to 1.ca)]

⁴⁷ **CZ:** delete "or". **FR** move this from (4) (d) (iii) to a new (4) (bb). Will read as follows: "**(bb) the preservation or the increase of reception and protection capacities of third countries where persons in need of international protection have been displaced, in particular by setting up an efficient asylum system we want to further stress the importance of preserving and increasing reception and protection capacities of third countries.**"

⁴⁸ **IE:** the language in relation to return and readmission could be strengthened in relation to the obligation of countries of origin to facilitate the readmission of their nationals who are found not to have a protection need.

Article 5
*Eligibility criteria*⁴⁹

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DE, FI, HU, LT, PT, SE: scrutiny reservation on the article. **FR, ES:** reservation on the article; problematic aspects: IDPs, socio-economic vulnerability. **SI:** reservation, the cumulative nature of the criteria is not clear. **CZ:** modify the title as follows: "Eligibility criteria *for resettlement*" or "*Persons eligible for Union Resettlement Framework*". **NL, FR:** suggest the following drafting for Article 5: "The following third-country nationals or stateless persons shall be eligible for targeted Union resettlement schemes established *or other forms of humanitarian admission* in accordance with Article 8:

"I. (a) (i) **'refugees'** meaning third-country nationals, who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, political opinion or membership of a particular social group, are outside the country of nationality ~~or the part of that country in which they formerly habitually resided~~, and are unable or, owing to such fear, are unwilling to avail themselves of the protection of that country, or stateless persons, who, being outside of the country of former habitual residence ~~or of the part of that country in which they formerly habitually resided~~, for the same reasons as mentioned above, are unable or, owing to such fear, unwilling to return to ~~or stay in it;~~ or, **failing that,**

(ii) **'persons eligible for subsidiary protection'** meaning **third-country nationals or stateless persons, who do not qualify as refugees but in respect of whom substantial grounds have been shown for believing that the persons concerned, is returned to their country of origin, or in the case of stateless persons, to their country of former habitual residence**, are outside the country of nationality ~~or the part of that country in which they formerly habitually resided~~, or stateless persons, who are outside of the country of former habitual residence ~~or of the part of that country in which they formerly habitually resided~~, and in respect of whom substantial grounds have been shown for believing that they, if returned to ~~or staying in their country of origin or former habitual residence~~, would face a real risk of suffering serious harm **as defined in Article 16 QR** and are unable, or, owing to such risk, are unwilling to avail themselves of the protection of that country;

(iii) **'internally displaced persons'**, meaning **third country nationals or stateless persons who are in their country of nationality or the country in which they formerly habitually resided, and who are in need of international protection.**

(b) third-country nationals and stateless persons who **according to UNHCR** fall within at least one of the following categories:

(i) vulnerable persons:

- **persons with legal and/or physical protection needs**
- women and girls at risk;
- children and adolescents at risk, including unaccompanied children;
- survivors of violence and/or torture, including on the basis of gender;
- persons with legal and/or physical protection needs;
- persons with medical needs or disabilities;
- **family reunification;** or
- **persons with lack of foreseeable alternative durable solutions**
- ~~persons with socio-economic vulnerability;~~"

Keep (ii) as it stands but delete "Member States shall ensure that family unity can be maintained between persons referred to in point (b)(ii)" because the principle of family unity

The following third-country nationals or stateless persons shall be eligible for targeted Union resettlement schemes established in accordance with Article 8⁵⁰:

- a) (i) third-country nationals, who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, political opinion or membership of a particular social group, are outside the country of nationality ~~or the part of that country in which they formerly habitually resided~~, and are unable or, owing to such fear, are unwilling to avail themselves of the protection of that country, or stateless persons, who, being outside of the country of former habitual residence ~~or of the part of that country in which they formerly habitually resided~~, for the same reasons as mentioned above, are unable or, owing to such fear, unwilling to return to ~~or stay in it~~; or, failing that,⁵¹
- (ii) third-country nationals, who are outside the country of nationality ~~or the part of that country in which they formerly habitually resided~~, or stateless persons, who are outside of the country of former habitual residence ~~or of the part of that country in which they formerly habitually resided~~, and in respect of whom substantial grounds have been shown for believing that they, if returned to ~~or staying in~~ their country of origin or former habitual residence, would face a real risk of suffering serious harm **as defined in Article 16 of Regulation (EU) XXX/XXX (Qualification Regulation)**, and are unable, or, owing to such risk, ~~are~~ unwilling to avail themselves of the protection of that country; **or**

is not an eligibility criterion, but a general point of departure. This could well extend beyond point (b-ii). If so, it probably would be better placed in the Preamble. Delete "MS shall ensure that family unity can be maintained between persons referred to in point (b) (ii)." Add: "**2. Internally displaced persons can only be eligible to other forms of humanitarian admission.**" **SE:** stresses the importance of that the proposed regulation acknowledges UNHCR's resettlement submission categories, and the role of UNHCR in identifying refugees who meet these categories; in the case of family reunification the principle of family unity is already today a crucial factor in the determination of resettlement needs by the UNHCR, and it does influence UNHCR when deciding which State a case should be referred to but it is rarely the sole basis of such a decision.

50 **DE:** the first sentence should be redrafted as follows: "~~The~~ **Notably the** following third-country nationals or stateless persons shall be eligible for targeted Union resettlement schemes ~~established in accordance with Article 8:~~";

51 **PL:** consistency should be ensured between points (i) and (ii) of letter (a) and of point (ii) of letter (b) with QR proposal.

- (ab) (i) **third country nationals or stateless persons who are in their country of origin or of habitual residence but outside the part of that country in which they formerly habitually resided for the reasons mentioned in point (a) (i) and who for the same reasons are unable or, owing to such fear, unwilling to stay, return and go to another part of that country; or, failing that,**
- (ii) **third country nationals or stateless persons who are in their country of origin or of habitual residence but outside the part of that country in which they formerly habitually resided for the reasons mentioned in point (a) (ii) and who for the same reasons are unable or, owing to such risk, unwilling to stay, return and go to another part of that country; and**
- (b) third-country nationals and stateless persons who fall within at least one of the following categories⁵²:
- (i) vulnerable persons:
- **persons with legal or physical protection needs** ⁵³;
 - women and girls at risk;
 - children and adolescents at risk, including unaccompanied children;⁵⁴
 - survivors of violence ~~and~~/or torture, including on the basis of gender;⁵⁵
 - ~~persons with legal and/or physical protection needs~~⁵⁶

⁵² **CZ:** make this part of letter (a) and redraft it as follows: "~~(b)~~ **Within** third-country nationals and stateless persons *mentioned above, preference shall be given to those* who fall within at least one of the following categories:"

⁵³ **CZ:** delete.

⁵⁴ **PL:** replace "children" with "minors".

⁵⁵ **CZ:** delete.

⁵⁶ *moved to 1st indent.*

- persons with medical needs, **in particular life-saving treatment that is unavailable in the country to which they have been displaced; or**
 - **persons with** ~~or~~ disabilities⁵⁷; ~~or~~
 - ~~persons with socio-economic vulnerability;~~
- (ii) family members of **the following** third-country nationals or stateless persons or Union citizens **who are** legally residing in a Member State.⁵⁸
- the spouse or unmarried partner in a stable relationship, where the law or practice of the Member State concerned treats unmarried couples in a way comparable to that of married couples under its law relating to third-country nationals or stateless persons;
 - the minor children of couples referred to in the first indent or of third-country nationals or stateless persons to be resettled, on the condition that they are unmarried, regardless of whether they were born in or out of wedlock or adopted as defined under national law;

⁵⁷ *new indent, split from the previous one. PL: replace "disabilities" with "special needs resulting from disabilities".*

⁵⁸ **CZ:** scrutiny reservation. **EL:** concerns regarding this subparagraph underlining the need for further clarification regarding the way that the resettlement framework and Directives 2004/38 / EC and 2003/86 / EC can complement each other. It is also noted that the definition of family members is not the same in all three points in 5 b (ii), ie

- a) Family members of beneficiaries of international protection who reside in a MS
- b) Family members of third-country nationals residing in a MS and
- c) EU citizens' family members residing in another MS.

IE: scrutiny reservation on inclusion of family members of a TCN or stateless person or Union citizen residing in a Member State – this requires further consideration at national level.

- the father, mother or another adult responsible for ~~the~~**an** unmarried minor to be resettled, whether by law or by the practice of the Member State where the adult is present;⁵⁹
- the sibling or siblings of the third-country nationals or stateless persons to be resettled⁶⁰;
- **the child or parent on whom** third-country nationals or stateless persons to be resettled ~~who are dependent on their child or parent~~ for assistance as a result of pregnancy, a newborn child, serious illness, severe disability or old age.⁶¹ **This applies** provided that family ties existed in the country of origin, that the child or parent is able to take care of the dependent person, and that the persons concerned expressed their desire in writing;⁶²

⁵⁹ **DE:** "*whether by law or by the practice of the Member State where the adult is present*" - does this relate to the adult responsible? **BG:** reservation, how can it be proved the adult is responsible?

⁶⁰ **CZ:** redraft as follows: "the sibling or siblings *who are minors* of the third-country nationals or stateless persons to be resettled;"

⁶¹ **CZ:** what other categories are these? They seem to be covered by previous indents and should be deleted.

⁶² **DE:** "provided that family ties existed in the country of origin" - scrutiny reservation; "is able to take care of the dependant person" - what does this mean? financial care?; "the persons concerned" - is this the donor or the person to be resettled?; "desire" - whose desire? The desire of the donor to support the person to be resettled or the desire of the person to be resettled (to be indeed resettled)?

- c) ~~third country nationals or stateless persons who do not fall within the scope of Article 1D of the 1951 Geneva Convention, relating to protection or assistance from organs or agencies of the United Nations other than the United Nations High Commissioner for Refugees ("UNHCR");~~⁶³
- d) ~~third country nationals or stateless persons who have not been recognised by the competent authorities of the country in which they are present or have taken up residence as having the rights and obligations which are attached to the possession of the nationality of that country, or rights and obligations equivalent to those.~~⁶⁴

Member States shall ensure that family unity can be maintained between persons referred to in point (b)(ii).⁶⁵

⁶³ *moved to Article 6. CZ:* delete; only refugees and persons entitled to subsidiary protection shall be subject to resettlement as such. The rest can be transferred under humanitarian admission and shall not be granted refugee status or subsidiary protection but national protection statuses if they do not fulfil the conditions for international protection. **FR, ES:** delete.

⁶⁴ *moved to Article 6 CZ:* delete, only refugees and persons entitled to subsidiary protection shall be subject to resettlement as such. The rest can be transferred under humanitarian admission and shall not be granted refugee status or subsidiary protection but national protection statuses if they do not fulfil the conditions for international protection.

⁶⁵ **CZ:** delete "(b)".

Article 6

Grounds for exclusion from resettlement⁶⁶

⁶⁶ **AT:** reservation on the article. **DE, FR, SE:** scrutiny reservation. **IE:** the mechanism for cooperation and information exchange between Member States, under paragraph 1, is not established. This should be clearly set out in the text. A legal basis is required for the exchange of data which is envisaged here. If this is the Eurodac Regulation, then this should be clearly set out in the provisions. **NL:** replace "exclusion" with "ineligibility" in the title; great concerns with regard to (slightly) altering the wording/definitions of the existing CEAS acquis, because this inevitably raises questions and will cause uncertainty as to the interpretation, especially by caseworkers during missions (and judiciary in the Member States). E.g. the altering of the formulation 'serious reasons for considering' into 'reasonable grounds for considering' doesn't make sufficiently clear that within this specific framework a person can be considered ineligible more easily than within the CEAS/QR once a person has entered the territory of the EU. It stresses the importance to keep the wording absolutely clear and unequivocal. This is best done by either referring to the relevant articles of the QR (art.12 and 18 QR), or copying the exact wording thereof. As far as this article is supposed to differentiate from the QR (less stringent) this should be explicitly mentioned and added in a separate phrase to the wording. It seems as though paragraph (2) partly overcomes this. One further suggestion would be, as proposed amongst others by Austria, to add an extra paragraph which enables States to refuse resettlement on other reasonable grounds (See text proposal for an additional paragraph (3)). This would stipulate that there is no subjective right to resettlement (and that ultimately it is the MS' discretion who they pro-actively collect and admit to their territory). MS should at all times be left room to refuse resettlement of candidates who, e.g.:

- insist that they will not integrate (the possibility to refuse candidates has been enabled regarding resettlement under the 1:1 EU-TUR scheme, when several States were confronted with candidates who e.g. insisted that they would not abide by the laws regarding co-education). In order to preserve public acceptance for resettlement it is of paramount importance that MS maintain this discretion.
- on the other hand there could be cases for which a certain MS cannot provide suitable housing, or necessary medical expertise/treatment, or reasoning related to the principle of a balanced caseload.

For all these circumstances an exceptional clause or residual category is needed (an open and flexible norm). In addition, in case of refusal under this residual category, the reasons for invoking should be made available to other States (and/or UNHCR), so as to see to it that MS who can provide for suitable reception conditions can consider the case for resettlement (and a person that is in principle eligible for resettlement is not kept from international protection). Optional: add "without prejudice to the principle of non-discrimination" to paragraph 3. Current NLs resettlement practice also assesses the integration profile of resettlement candidates and takes this profile into account when deciding upon a referral. It is out of experience that NL has introduced this profile. First and foremost resettlement should result in the candidate to be better off; this is not necessarily always the case. The integration profile interview makes it possible for both the resettling State and the resettlement candidate to make a better informed decision whether resettlement is the best option in the individual case at hand (including expectation management). This

1. The following third-country nationals or stateless persons shall be excluded from targeted Union resettlement schemes established in accordance with Article 8⁶⁷:

- (-a) **persons falling within the scope of Article 1(D) of the Geneva Convention, relating to protection or assistance from organs or agencies of the United Nations other than the United Nations High Commissioner for Refugees, unless the Member State examining the resettlement file ascertains that the persons concerned were forced to leave their area of operation due to a situation where their personal safety was at serious risk and such organs or agencies were unable to ensure their minimum living conditions in accordance with their mandate;**
- (-aa) **persons recognised by the competent authorities of the country in which they have taken up residence as having the rights and obligations which are attached to the possession of the nationality of that country, or equivalent rights and obligations;**
- (a) persons for whom there are reasonable grounds for considering that:

explicitly goes both ways: the EU-TUR implementation is a good example where the information about NL society more often results in candidates withdrawing, than in NL refusing because a candidate persists non-adherence to Dutch legislation and society. NL considers it important and would welcome the flexibility to include the integration interview and assessment in the eligibility procedure under the Framework. This could be accomplished under the proposed 3rd paragraph. It should be noted that UNHCR is not against an integration profile assessment (understandable from State's perspective of public acceptance), for UNHCR it depends largely upon how it would be described and implemented (non-discriminatory, careful). NL also proposes to add to paragraph (2) a phrase which allows MS in case of substantial exceptional individual circumstances to deviate from invoking point (d) or (f). This allows for flexibility based in individual cases. It might also answer to the objections of UNHCR, NGO's and some EP members that a 5 year bar is too long, because circumstances may change significantly. **PL**: modify the title as follows: "Grounds for refusal" or "Grounds for ineligibility", merge the article with Art 9, add the following new ground for refusal: "(g) persons who have already been relocated or refused the relocation procedure." **SE**: the term exclusion has a distinct meaning in the context of international refugee protection that relates to individuals who may be undeserving of international protection. An alternative approach (as proposed by UNHCR) could be to make reference in the proposed regulation to grounds for ineligibility rather than exclusion. **FR** (supported by **BE**): prefers "grounds for refusal".

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NL: following redrafting is suggested: "The following third-country nationals or stateless persons shall be ~~excluded from~~ *ineligible for* targeted Union resettlement schemes established in accordance with Article 7~~8~~:" **LT**: a new sub-paragraph should be added to para (1) stating that persons who fail to cooperate with MS in order to verify their identity and to check their eligibility should be excluded from resettlement.

- (i) they have committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;
- (ii) they have committed a serious crime;
- (iii) they have been guilty of acts contrary to the purposes and principles of the United Nations as set out in the Preamble and Articles 1 and 2 of the Charter of the United Nations;

This point also applies to persons who incite or otherwise participate in the commission of the crimes or acts mentioned therein.

- (b) persons for whom there are reasonable grounds for considering that they are a danger to the community, public policy, security, public health or the international relations of the Member State examining the resettlement file.;

This also applies including where when -a second Member State ~~has~~ **having** required the Member State examining the resettlement file to **be consulted** ~~that second Member State~~ during the examination in relation to specific third-country nationals or stateless persons, or specific categories of third-country nationals or stateless persons, ~~that second Member State~~ has objected to their resettlement on ~~these~~ **the** grounds **referred to in this point;**⁶⁸

- (c) persons for whom an alert has been issued in the Schengen Information System or in a national database of a Member State for the purposes of refusing entry;
- (d) persons who have irregularly stayed, irregularly entered, or attempted to irregularly enter the territory of the Member States during the five years prior to resettlement;⁶⁹
- (e) persons who have already been resettled⁷⁰ by another Member State in the implementation of this Regulation, the Conclusions of the Representatives of the Governments of the Member States meeting within the Council 11097/15 of 20 July 2015, the EU-Turkey Statement of 18 March 2016, the Commission Recommendation C(2015) 9490 of 15 December 2015, or a national resettlement scheme; ~~and~~

⁶⁸ **NL:** delete from "including" until the end; unclear wording. What concrete example would COM have in mind?

⁶⁹ **DE:** what about old cases? people who tried to enter the EU irregularly before the resettlement framework took effect? **EL:** scrutiny reservation on (d). **IT:** (d), (e) and (f) require a very close exchange of information between MS. How will this take place in practice? **LV** (supported by **EE, ES**): exchange of information is very important; the consultation between MS should be consultation under Visa Code or another type of consultation system? How will a MS know that another MS refused/resettled a person? **SE:** if there will not be a possibility to reconsider cases within such a long time frame it may limit UNHCR's ability to find protection and solutions for refugees who are in most need. However, a five-year rule may be necessary in rejected cases due to security reasons, but not as a general rule.

⁷⁰ **CZ:** replace "resettle" by "granted international protection".

- (f) persons whom Member States have during the last five years prior to resettlement refused to resettle in accordance with this paragraph;-
- (g) **persons who during the last five years prior to resettlement have not given or have withdrawn their consent to be resettled to a particular Member State in accordance with Article 9; and**
- (h) **persons who have been granted international protection by Member States.**

2. Third-country nationals or stateless persons may be excluded from targeted Union resettlement schemes established in accordance with Article 8, where one of the grounds for exclusion referred to in points (a) or (b) of paragraph 1 **of this Article** applies *prima facie*.⁷¹

⁷¹ **AT** (supported by **BE**): make this a "shall" clause. Add one more para as follows: "(3) *Third-country nationals or stateless persons may be excluded from targeted Union resettlement schemes established in accordance with Article 8, where there are other duly justified circumstances to be excluded from Resettlement to a Member State.*" **DE**: replace "may" with "shall"; delete "established in accordance with Article 8". **NL**: replace "excluded" with "considered ineligible"; regarding "prima facie". In the context of exclusion (QR) 'prima facie' can also have a different meaning and refers to presumption of excludability. For unambiguous understanding it would be advisable to adjust the wording in this paragraph (at first appearance). Add the following para (3): "*Third-country nationals or stateless persons may be considered ineligible for resettlement or humanitarian admission on other reasonable grounds pertaining to the individual circumstances of the case. Participating States shall not be required to give the reasons for not accepting to resettle or admit a third country national or a stateless person on their territory.*" MS should be able to inquire with a MS who has not accepted to resettle a specific person what the reasons were for non-accepting.

Article 7

*Annual-Union resettlement plan*⁷²

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AT: reservation on the article; combine Art 7 and 8 in order to have one technical procedure in place before starting resettlement. This shall be as written in Article 7 on the basis of a proposal from the Commission with an adoption of the Council. **CZ:** the legal form of this instrument is unclear. **BG, FI, FR, IE, PL:** scrutiny reservation **DE:** general scrutiny reservation regarding the institutional structure of the proposal. We see a need for discussion if this regulation with the referral of competences to the Commission will, in fact, help promoting resettlement or not. We see a need for discussion relating to the procedure, for example Art. 7 (2) and Art. 8 (2). How can be reassured that participation remains voluntary? Involvement in adopting the implementing act should be different with reference to participating EU MS and not participating EU MS. No decision should be taken against a participating EU MS. **IE:** the sequencing of the Articles on the Annual Union resettlement plan (Article 7), the Targeted Union resettlement schemes (Article 8) and the High Level Resettlement Committee (Article 13) should be set out to reflect their position in the chronology of the decision-making structure proposed. The voluntary nature of the scheme should be explicitly mentioned in Article 7. The scheme should have in-built flexibility to reflect the voluntary nature and to incentivise the participation of Member States. **NL:** welcomes the suggestion by several MS to merge articles 7 and 8. This could be far more efficient in several ways (no time wasted with decision making processes, no because of overlap as mentioned below). As resettlement takes time to arrange it can never be a quick responder to emergency situations. Resettlement still can be topical when sticking to a bi-annual plan in which several priority regions and/or countries are indicated from which regarding each region/country a maximum number of persons (or specific groups of persons) should be resettled. Furthermore to address (individual) emergency situations, NL would welcome an additional paragraph on emergency resettlement in the EU Framework, as suggested. NL would like to advocate that a structural EU resettlement framework should also contain the possibility to address worldwide emergency cases. This would illustrate that the EU, besides responsibility sharing through addressing priority situations, doesn't turn a blind eye to individual emergency situations worldwide (e.g. human rights activists). Incorporating emergency resettlements could be quite easily done by adding a paragraph (3) to Article 7 (or adding a phrase in Art.4): "**3. Within the Union Plan participating States may also carry out resettlements or humanitarian admissions from areas other than those designated as priority areas, in particular by responding to calls for emergency resettlement of individuals by UNHCR. These resettlements or humanitarian admissions will be deducted from their total commitments under the Union Plan**". It could be left up to the discussions regarding each bi-annual union plan whether a maximum percentage of the total commitment of participating States should be reserved for emergency resettlements. When incorporating emergency resettlement in the Framework, it might be a suggestion to also add the definition of emergency resettlement to art.2: "**(c) 'Emergency resettlement and humanitarian admission' means resettlement or humanitarian admission of individual 'emergency' and 'urgent' cases submitted by UNHCR to ensure security of refugees who are threatened with refoulement to their country of origin or those whose physical safety is seriously threatened in the country where they have sought refuge.**" **SE:** important that the planning for EU resettlement is aligned to the extent

1. On the basis of a proposal from the Commission, the Council shall adopt an ~~annual~~ **two-year** Union resettlement plan in the year preceding ~~that~~ **the two-year period** in which it is to be implemented.
2. The ~~annual~~ Union resettlement plan shall include⁷³:
 - a) the maximum total number of persons to be resettled⁷⁴, **indicating, where relevant, what part of that number shall be dedicated to the resettlement of persons with urgent legal or physical protection needs;**
 - b) details about the participation of the Member States ~~in the annual Union resettlement plan~~ ~~therein~~ and their contributions to the **maximum** total number of persons to be resettled;⁷⁵
 - c) overall geographical priorities.⁷⁶

possible with that of UNHCR. It is also important to strengthen the predictability component of the Framework.

⁷³ **NL:** delete "resettlement".

⁷⁴ **NL:** add "or to benefit from humanitarian admission based on national procedures;"

⁷⁵ **CZ:** "details about the participation" is a very vague terminology and should be specified; add "maximum" before "number". **IE:** the "details about the participation of the Member States" should include the possibility for a Member State to indicate their willingness to participate in the annual Union resettlement plan by way of the "Ordinary procedure", set out under Article 10, without being obliged to participate in the "Expedited procedure", under Article 11. As a voluntary scheme, Member States should have some discretion as regards the terms of their participation. **NL:** redraft as follows: "(b) details about the participation of the Member States in the annual Union ~~resettlement~~ plan and their **maximum** contributions to the **maximum** total number of persons to be resettled **and/or to benefit from humanitarian admission based on national procedures.**" **BG, HU, FI, LT, PL, RO, SI:** add "voluntary" before participation.

⁷⁶ **DE:** add a last sentence after letter (c) under para (2) drafted as follows: "***The annual Union resettlement plan serves as a recommendation.***"

Article 8

*Targeted Union resettlement schemes*⁷⁷

1. The Commission shall adopt implementing acts⁷⁸ establishing targeted Union resettlement schemes consistent with the ~~annual~~ Union resettlement plan adopted pursuant to Article 7. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 15(2).⁷⁹
 2. A targeted Union resettlement scheme shall include at least⁸⁰:
 - a) a detailed justification for the targeted Union resettlement scheme;
 - b) the ~~precise~~⁸¹ number of persons to be resettled from the maximum total number as set out in the ~~annual~~ Union resettlement plan provided for in point (a) of Article 7(2) **indicating, where relevant, what part of that number shall be dedicated to the resettlement of persons with urgent legal or physical protection needs and**
- (bb) details about the participation of the Member States in the targeted Union resettlement scheme;⁸²

⁷⁷ **AT, ES, FR:** reservation on the article. **IE, IT, SE:** scrutiny reservation on the article. **DE:** delete Art 8. Why should the Commission adopt implementing acts? How can be ensured that participating MS have more influence than not participating EU MS?. **NL:** delete the title and the number of the article and merge with Art 7. Decision making processes in Art. 7 as well as Art. 8 can be influenced by MS which do participate. Especially with regard to Art.8 this is questionable (majority vote). **SE:** need to highlight the issue of the possibility of including a specific emergency quota on a dossier basis within the union resettlement schemes that is not linked to priority regions or populations. In Sweden we have set aside a quarter of our national resettlement quota for un-earmarked places. It should be possible to benefit from EU-funding for emergency-places also under the new Framework.

⁷⁸ **PL:** scrutiny reservation on the implementing acts (Article 7 and Article 8). It should be clarified and further discussed as it might have a negative impact on the national competences.

⁷⁹ **CZ, ES:** reservation; targeted Union resettlement schemes shall be determined by the Council.

⁸⁰ **CZ:** delete "at least".

⁸¹ **CZ, NL:** replace "precise" with "maximum".

⁸² **BG:** reservation. **IT:** delete this letter. **NL:** replace "participation" with "voluntary commitments". **PL, RO:** add "voluntary" before participation.

- c) the specification of the regions or third countries from which resettlement is to occur as referred to in Article 4;
- d) where necessary, local coordination and practical cooperation arrangements among Member States **contributing to a targeted Union resettlement scheme**, supported by the [European Union Agency for Asylum] in accordance with Article 12(32), ~~and~~ with third countries, ~~and~~ UNHCR or other **relevant** partners;⁸³
- e) a description of the specific group or groups of third-country nationals or stateless persons to whom the targeted Union resettlement scheme shall apply;⁸⁴
- f) ~~whether the ordinary procedure set out in Article 10 or the expedited procedure set out in Article 11 shall be applied where necessary, a specification~~**ing where necessary of** how the identification and assessment of third-country nationals or stateless persons shall be carried out, and the timeframe for ~~taking decisions~~**reaching conclusions** on resettlement;
- g) the date on which the targeted Union resettlement scheme shall take effect and its duration.

⁸³ **NL:** should these arrangements be in place when establishing the TURS? (as noted above: these arrangements, especially when it concerns a new country from which resettlement has not taken place before can take a considerable amount of time). And are these arrangements mandatory for MS regarding their implementation of their commitment to the TURS? MS should be tempted to make use of these arrangements because of logistical and costs efficiency, and not obliged to. This might affect the willingness to take part as well as the numbers.

⁸⁴ **CZ:** what is the relationship of letter (e) to Article 5 on eligibility criteria? All persons to be resettled shall fall within eligibility criteria.

Article 9
*Consent*⁸⁵

The resettlement procedures laid down in Articles 10 and 11 shall apply to third-country nationals or stateless persons who have given their consent to be resettled and have not subsequently withdrawn their consent, including refusing resettlement to a particular Member State.⁸⁶

⁸⁵ **BE, ES, FR:** should be moved after Art 6. **CZ:** this Article should be linked more closely with Article 5 and 6 as it determines the eligibility and exclusion grounds. **DE:** add a second sentence drafted as follows: "*Third-country nationals or stateless persons who refused to be resettled or admitted to a particular Member State shall no longer be eligible for resettlement to any Member State. Information about this consequence has to be provided in advance.*" **NL:** delete from here and move before new Art merging 7 and 8 with the following drafting: "*Resettlement under this framework* The resettlement procedures laid down in Articles 10 and 11 shall apply to third-country nationals or stateless persons who have given their consent to be resettled and have not subsequently withdrawn their consent, including refusing resettlement to a particular Member State." Suggestion for an even more explicit wording: "*Resettlement under this framework shall apply to third-country nationals or stateless persons who have given their consent to be resettled. Third country nationals or stateless persons who have subsequently withdrawn their consent, including refusing resettlement to a particular Member State are disbarred from resettlement under this Framework.*" It should not necessarily be included in the wording of this article, but it should be in place:

A) who will ask for the consent (this could be either UNHCR or Member States, and in future possibly also EASO/EUAA)?;

B) who will feed the consent/withdrawal/ refusal into a database (this can only be Member States)?;

C) what database is to be used to contain information on consent/withdrawal/refusal of a specific person, in order for MS to be able to have this information at their disposal (probably EURODAC, which would have to be amended for this purpose? To date this amendment is not proposed in the current revision).

⁸⁶ **IE:** we understand the need for the resettlement candidate to give his/her consent to be resettled. This is an important part of the process. The intention of the second part of the sentence is less clear. If the intention is to reinforce that a candidate cannot choose his/her preferred Member State for resettlement, then this needs to be more clearly set out in the text. We suggest making this into two separate sentences as essentially there are two separate points here. **PL:** see comment on Art 6.

Article 10⁸⁷

Ordinary-Resettlement procedure⁸⁸

1. When implementing a targeted Union resettlement scheme, Member States shall identify⁸⁹ third-country nationals or stateless persons and assess whether those ~~third-country nationals or stateless persons~~ fall within the scope of a targeted Union resettlement scheme.

Member States may give preference *inter alia* to third-country nationals or stateless persons with⁹⁰:

- a) family links with third-country nationals or stateless persons or Union citizens legally residing in a Member State⁹¹;
- b) social or cultural links, or other characteristics that can facilitate integration in the participating Member State, provided that this is without discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation, without prejudice to differences in treatment necessary for the assessment referred to in the first subparagraph⁹²;

⁸⁷ **DE, ES, FI, FR, IE, SE, SI:** scrutiny reservation on the article. **IE:** the Article does not set out the potential for security assessments within the procedure, this would be considered essential. **PL:** identification of 3rd country nationals only on a selection mission. **PT:** reservation.

⁸⁸ **SE:** proposes "Procedure for resettlement".

⁸⁹ **FI, LU, PT:** need to reinforce the role of UNHCR. **FR:** Role of UNHCR should be explicitly put here. The sentence should read as follows: "When implementing a ~~targeted~~ Union ~~resettlement scheme~~ *plan*, Member States, ***with the help of the UNHCR***, shall identify third-country nationals or stateless persons and assess whether those third country nationals or stateless persons fall within the scope of a ~~targeted~~ ***the*** Union ~~resettlement scheme~~ *plan*."

⁹⁰ **EL:** need to ensure that it will not be possible to reject persons who comply with eligibility but not covered by a) b) c)

⁹¹ **CZ:** delete (due to duplication in the Art. 5). **EL:** scrutiny reservation, linked to article 5 b) ii). **FI:** We have a connection with Art. 5, needs to be clarified, maybe remote family members can be left out.

⁹² **PL:** need to clarify "without discrimination".

c) particular protection needs or vulnerabilities⁹³.

1a. For the purpose of ~~implementing the ordinary procedure, prior to identifying third-country nationals or stateless persons, Member States may~~⁹⁴ **first request UNHCR, or where applicable, [the European Union Agency for Asylum]⁹⁵ or relevant another international bodies⁹⁶ to refer to them third-country nationals or stateless persons in relation to whom those entities have fully assessed whether they fall:**

a) ~~whether they fall~~ within the scope of the targeted Union resettlement scheme⁹⁷;
and

(b) ~~whether they fall~~ under one of the vulnerability categories set out in point (b)(i) of Article 5.

Member States may ~~also~~ request UNHCR to fully assess whether third-country nationals or stateless persons referred to them ~~by UNHCR~~ qualify as refugees within the meaning of Article 1 of the 1951 Geneva Convention.

Member States may also request that inter alia the criteria set out in points (a) to (c) of paragraph 1 be taken into account.⁹⁸

⁹³ CZ: delete due to duplication in the Art. 5.

⁹⁴ PL: in the PL linguistic version the word "may" is missing

⁹⁵ FR: doubts if EASO has specific procedures. UNHCR has more experience. Draft the point as follows: "~~For the purpose of implementing the ordinary procedure, p~~Prior to identifying third country nationals or stateless persons, Member States may request UNHCR, ~~or where applicable, [the European Union Agency for Asylum] or relevant international bodies~~ to refer to them third-country nationals or stateless persons in relation to whom ~~those entities~~ it ~~has~~ fully assessed:"

⁹⁶ NL: Only UNHCR, there is no need for other entities or bodies.

⁹⁷ FR: Draft as follows (consistently with previous comments): " (a) whether they fall within the scope of the ~~targeted~~ Union ~~resettlement scheme~~ *plan*."

⁹⁸ ES: reservation on the whole para, because of the definition of resettlement at the beginning of the Regulation. UNHCR role should be more binding, here looks optional. FI: UNHCR is very important here, further clarification is needed.

2. After identifying **and assessing** third-country nationals or stateless persons **in accordance with paragraph 1**, Member States shall register⁹⁹ the following information¹⁰⁰ of those for whom they intend to conduct the resettlement procedure:

- a) the name, date of birth, gender, nationality; ~~and other personal details~~¹⁰¹
- b) the fingerprints of all fingers and a facial image of every third-country national or stateless person of at least six years of age¹⁰²;
- c) the type and number of any identity or travel document of the third-country national **or stateless person**; and
- d) the date of the registration, the place where the registration is made, and the authority making the registration.

Additional data necessary for the implementation of paragraphs 3 and 4 may also be ~~collected at the time of registration~~ **registered**.¹⁰³

⁹⁹ **BE:** include this data in Eurodac. **CZ:** in which database? it should be stated here. **ES:** no inclusion of this data in Eurodac. No beneficiaries, only on applicants. **IE:** will this registration process and the storing of fingerprints/facial images be done under the Eurodac Regulation post-arrival? There is no provision for this currently in the proposal to recast the Eurodac Regulation. **PL:** need to clarify in which system Member States will have to log in info regarding the persons.

¹⁰⁰ **ES:** doubts about the necessity to provide all these data as such, at an early stage. This is a heavy burden, this info should be provided later. **LV:** should data be registered before arrival?

¹⁰¹ **CZ:** "*other personal details*" should be specified more precisely due to the protection of personal data.

¹⁰² **AT:** How shall this provision be implemented in practice, if a MS does not rely on selection missions? It will not be possible to take fingerprints of TCNs on-site, as AT has no selection missions collecting data on-site such as taking fingerprints. **FR:** how is this linked to Eurodac? We would like to have all resettled people in Eurodac, it is important to identify possible secondary movements. Move this letter to para 7. **SK:** who and where will the fingerprints and the pictures be taken?

¹⁰³ **FR:** What is the purpose of having specific registration obligations, as there are no rights associated to it? Where should this information be stored?. **IT:** the order of paragraph 2 and 3 should be inverted. The assessment on eligibility criteria and exclusion causes is necessary before the registration of potential beneficiaries. Otherwise, we risk to register cases which could never be eligible, increasing the administrative burden and creating false expectations. **PT:** doubts with the order in this article. Only when you have a favourable decision then you can register this information.

3. Member States shall assess whether the third-country nationals or the stateless persons referred to in paragraph 2 meet the eligibility criteria set out in Article 5 and whether they are not excluded in accordance with Article 6(1).

Member States shall make that assessment on the basis of documentary evidence, including, where applicable, information from UNHCR on whether the third-country nationals or the stateless persons qualify as refugees, or on the basis of a personal interview, or a combination of both.¹⁰⁴

4. Member States shall ~~take a decision~~ **reach a conclusion** on the resettlement of third-country nationals or stateless persons on the basis of the assessment referred to in paragraph 3¹⁰⁵ as soon as possible and not later than eight months¹⁰⁶ from their registration¹⁰⁷. Member States may extend that time-limit ~~of eight months~~ by a period of not more than four months, where complex issues of fact or law are involved¹⁰⁸.

By way of derogation from the first sub-paragraph, where the Commission implementing act establishing a targeted Union resettlement scheme provides for a shorter time-limit in accordance with Article 8 (2) (f), Member States shall reach a conclusion on the resettlement of third-country nationals or stateless persons within that time-limit.

¹⁰⁴ **ES:** scrutiny reservation. How it links to Article 5? **IT:** Move to para 2.

¹⁰⁵ **IT:** replace by "paragraph 2" in line with suggested change of order of paragraph 2 and 3.

¹⁰⁶ **FR:** what is the purpose of having time-limits for assessing resettlement cases, as there are no rights associated to them? **PT:** this deadline is only for the decision, and there is no reference to the actual transfer of the person. It would be good to have an indicative deadline on this.

¹⁰⁷ **AT:** what does it mean? registration in the MS or by UNHCR in the country of departure?.

SE, IT: replace "registration" by "referral". The resettlement procedure starts from the referral. What if the registration is delayed by the MS?

¹⁰⁸ **AT:** delete the following sentence with the binding deadlines "(...) as soon as possible and not later than eight months from their registration. Member States may extend that time-limit of eight months by a period of not more than four months, where complex issues of fact or law are involved." **BG:** scrutiny reservation, external factors have impact in the process even in time limits, more analysis is needed. **CZ** add "*Deciding on resettlement may not need to take a form of administrative procedure*". **DE:** wonders what is the legal consequence of violating the limits.

5. Member States shall store the data¹⁰⁹ referred to in paragraphs 2 to 4 for ~~five~~ **ten**¹¹⁰ years from the date of resettlement. **In the case of persons who have not been resettled the data referred to in paragraphs 2 to 4 shall be stored for a period of five years from the date of registration.**

Upon expiry of ~~the applicable that~~ period, **the** Member States shall erase the data. Member States shall erase **the** data relating to a person who has acquired citizenship of any Member State before the expiry of that period as soon as ~~the~~ Member States becomes aware that the person concerned has acquired such citizenship¹¹¹.

6. ~~Where a~~ **If the conclusion referred to in paragraph 4 is negative decision**¹¹² ~~is taken~~, no resettlement of the person concerned shall occur¹¹³.
7. ~~Where~~ **If the conclusion referred to in paragraph 4 is a positive decision** ~~is taken~~, the Member State shall¹¹⁴:

¹⁰⁹ **PT:** need to register this data in Eurodac to avoid secondary movements.

¹¹⁰ **IE:** scrutiny reservation, in IE the data are not erased, so we will have a problem with the national programme. **SI:** scrutiny reservation on deadlines.

¹¹¹ **ES:** reservation about storage of data. Difficult to know when acquires citizenship. **FR:** scrutiny reservation, as it is unclear whether such a provision is required by EU law/compatible with national law.

¹¹² **AT, BE, NL:** delete "decision" and use other wording like "outcome". **PT:** improve wording to avoid confusions from the legal point of view. It's more a "negative evaluation" than a "negative decision".

¹¹³ **AT:** there is no subjective right, so delete. **DE, FR:** stress that there is no subjective right to be resettled. **FR:** sentence should be drafted as follows consistently with changes proposed in point 4: "Where a **the result of the assessment referred to in paragraphs 3 and 4** is negative ~~decision is taken~~, no resettlement of the person concerned shall occur". **SE:** add "to that Member State"

¹¹⁴ **IE:** scrutiny reservation on 10.7 and 10.8. It is an important distinction to note that resettled refugees under our national programme are considered as 'programme refugees' rather than 'Convention refugees', for example they are not automatically entitled to Convention travel documents. It is an equivalent status which is granted. This scheme should not create any negative impacts on national resettlement programmes. **SE:** scrutiny reservation.

- (a) grant refugee status where the third-country national or the stateless person concerned qualifies as a refugee, or subsidiary protection status where the third-country national or the stateless person concerned is eligible for subsidiary protection.¹¹⁵ The Member State shall notify the third-country national or the stateless person concerned of ~~that its~~ decision¹¹⁶. ~~This~~ ~~The decision to grant refugee status or subsidiary protection status~~ shall have the same effect as a decision to grant refugee status or ~~to grant~~ subsidiary protection status referred to in Articles 13 ~~and or~~ 19 of Regulation (EU) No XXX/XXX [Qualification Regulation], once the person concerned has entered the territory of a Member State¹¹⁷;

¹¹⁵ **DE:** add "*The Member State can as well grant a comparable national status*".

¹¹⁶ **AT:** delete this sentence. **BG:** granting before arrival should not be the procedure, only when enters the territory and the administrative body has a reasoned decision. **CZ:** add "*Member states may deliver the decision on international protection after the arrival of the person concerned to the territory of the respective Member State*". **FR:** No desirable to grant status before arrival, we don't have extraterritorial rights, need to do it at the time they arrive. **IT** add ", *once the person concerned has entered the territory of a Member State*". **PL** how this notification can be done? how can we know they have received the decision?

¹¹⁷ **AT:** add the following sentence: "*Before entering the territory of a Member State no effects relating to the status referred to in Articles 13 and 19 of Regulation (EU) No XXX/XXX [Qualification Regulation] shall take place.*" **FR:** in our view it is absolutely impossible for a State to grant its protection to someone who is not present on its territory. EU legislation, and in particular the Qualification Directive (future Regulation), does not have extraterritorial effect. Would it be possible, we do not believe it would be advisable, as the refusal to resettle someone could then become challengeable. It must therefore be very clear that no decision can be taken and no protection can be granted before the actual arrival of the TCN/stateless on the territories of the MS's. Draft the para as follows: "*upon or after arrival on the territory of the concerned Member State*, grant refugee status where the third-country national or the stateless person concerned qualifies as a refugee or subsidiary protection status where the third country national or the stateless person concerned is eligible for subsidiary protection. ~~The Member State shall notify the third-country national or the stateless person concerned of that decision. The decision to grant refugee status or subsidiary protection status shall have the same effect as a decision to grant refugee status or to grant subsidiary protection status referred to in Articles 13 and 19 of Regulation (EU) No XXX/XXX [Qualification Regulation], once the person concerned has entered the territory of a Member State~~". This last sentence is already provided for in the Procedures Regulation and is thus not needed. **IE:** scrutiny reservation. The assessment under the Ordinary procedure will already have taken place prior to arrival. This should not give rise to the possibility of a legal remedy once the person has entered the territory of the MS. **LV:** concerns on the whole point a). **SE:** scrutiny reservation. The basis of resettlement as a durable solution is that states are expected to provide resettled persons with permanent residence. SE reaffirms its position promoting a system that enables the issuance of permanent residence permits.

- (aa) **make every effort to ensure entry to its territory not later than twelve months from the date of the conclusion;**
- b) ¹¹⁸offer to make travel arrangements, including fit-to-travel medical checks, and provide transfer to their territory free of charge¹¹⁹.; ~~and~~ That offer shall include, where necessary, the facilitation of exit procedures in the third country from where the third-country national or the stateless person is ~~admitted~~ **resettled**;
- c) **when considered feasible**¹²⁰, offer a pre-departure orientation programme¹²¹ to third-country nationals or stateless persons, which may include information about their rights and obligations, language classes, and information about the Member State's social, cultural and political set-up¹²².

~~8. For the purpose of implementing the ordinary procedure, prior to identifying third-country nationals or stateless persons, Member States may request UNHCR, or where applicable, [the European Union Agency for Asylum] or relevant international bodies to refer to them third-country nationals or stateless persons in relation to whom those entities have fully assessed:~~

- ~~(a) whether they fall within the scope of the targeted Union resettlement scheme; and~~
- ~~(b) whether they fall under one of the vulnerability categories set out in point (b)(i) of Article 5.~~

¹¹⁸ **AT:** add "*where necessary*", maybe it's not always needed it.

¹¹⁹ **AT:** delete "free of charge", if they have money and can contribute.

¹²⁰ **AT:** "*where necessary*", maybe it's not always needed it. **FR:** "*to the extent possible*".

¹²¹ **DE, SE:** delete "pre-departure", programmes after entry should also be possible. **SE:** as cultural orientation in some cases may not be possible to carry out pre-departure

¹²² **SE, DE:** add "*Generally this programme should be offered previous to departure within available resources*". **HR:** proposes that after the wording "third-country nationals or stateless persons" the following is inserted: "*where feasible*" and that the wording "language classes" is deleted. We are of the opinion that language classes should be an obligation only after the resettlement. **IE:** useful but not compulsory. The level of detail is excessive. **LV:** concerns on the whole point c). **SI:** need more flexibility. Orientation programmes can be offered when they arrive to the MS.

~~Member States may also request UNHCR to fully assess whether third-country nationals or stateless persons referred to them by UNHCR qualify as refugees within the meaning of Article 1 of the 1951 Geneva Convention.~~

~~Member States may also request that inter alia the criteria set out in points (a) to (c) of paragraph 1 be taken into account.¹²³~~

8a. By way of derogation from paragraph 3 of this Article, Member States may decide not to assess whether the third-country nationals or the stateless persons meet the requirements referred to in points (a)(i) and (ab)(i) of Article 5, where this is necessary for the following reasons:

- (a) to comply with the time-limits set out in the Commission implementing act establishing a targeted Union resettlement scheme; or**
- (b) to respond to urgent legal or physical protection needs of third-country nationals or stateless persons referred to in paragraph 2 of this Article.**

In this case Member States shall, if the conclusion referred to in paragraph 4 is positive, grant them subsidiary protection status. This status shall be considered terminated where a final decision has been taken on an application for international protection made by the beneficiary of this status.

¹²³ *moved to point 1a.*

9. The Commission shall be empowered to adopt delegated acts in accordance with the procedure laid down in Article 14 to supplement the elements referred to in paragraphs 1 to 4 **of this Article**, in order to adapt the resettlement procedure to the circumstances in the third country from which resettlement takes place where necessary¹²⁴.

Article 11

Expedited procedure

~~Where the Commission implementing act adopting a targeted Union resettlement scheme provides for an expedited procedure, and by way of derogation from Article 10, Member States:~~

- ~~(1) shall not assess whether the third-country nationals or the stateless persons meet the requirements referred to in point (a)(i) of Article 5;~~
- ~~(2) shall not require UNHCR to assess whether the third-country nationals or the stateless persons qualify as refugees within the meaning of Article 1 of the 1951 Geneva Convention;~~

¹²⁴ **AT:** delete, no need for this, it is sufficiently detailed. If Art. 9 shall remain in the text, AT proposes the following: "***When deciding on the Annual Union Resettlement Plan, the Council shall be empowered to adapt the provisions laid down in Art. 10 to supplement the elements referred to in paragraphs 1 to 4, in order to adapt the resettlement procedure to the circumstances in the third country from which resettlement takes place where necessary. Whenever provisions laid down in Art. 10 are adapted by the Council within the Annual Union Resettlement Plan, the Commission shall notify it simultaneously to the European Parliament.***" **DE:** scrutiny reservation. How can participating MS influence this decision?. **CZ:** scrutiny reservation. **ES:** don't agree with granting the Commission delegated powers. **FR:** delete, as it is not clear what could be the objective and scope of these delegated acts and why they could not be better reached by other means. **IE:** scrutiny reservation. Concerns as to the relevance of delegated acts; would like to have more info on added value. **LT, SI:** not convinced about the necessity. **PL:** concerns on Commission having prerogative to adopt delegated acts. **SE:** scrutiny reservation. It is not clear what would be the objective of these delegated acts. How can participating EU-MS influence this decision?. **SK:** reservation.

~~(3) shall take a decision on resettlement as soon as possible and not later than four months from a third country national's registration referred to in Article 10(2); the Member States may extend that time limit of four months by a period of not more than two months, where complex issues of fact or law are involved.~~

~~(4) shall grant the third country nationals or the stateless persons concerned subsidiary protection status.~~

~~The subsidiary protection status granted on the basis of point (4) shall be considered to have been terminated where a final decision has been taken on an application for international protection made by the beneficiary of that status.~~

Article 12¹²⁵

Operational cooperation¹²⁶

1. To facilitate the implementation of the targeted Union resettlement schemes¹²⁷, Member States shall appoint national contact points and may decide to appoint liaison officers in third countries.

¹²⁵ **SE:** scrutiny reservation, need to coordinate with EUAA Regulation. Underlining the importance of that the EUAA will not duplicate the work carried out by UNHCR and IOM.

¹²⁶ **SK:** not clear from the text how cooperation will be organised. A decision by the Commission? MS will work with a partner?

¹²⁷ **FR:** draft as follows, consistently with previous comments: "~~targeted~~ Union resettlement scheme *plans*".

2. [The European Union Agency for Asylum]¹²⁸ may support **Member States upon their request in accordance with Article 10 (1a), or where provided for in a targeted Union Resettlement Scheme in accordance with Article 8 (2)(e). This support may include, ~~Member States, including by~~ coordinating technical cooperation between ~~them~~ Member States, assisting ~~them~~ Member States in the implementation of targeted Union resettlement schemes¹²⁹, and facilitating the sharing of infrastructure **and cooperation with third countries** in accordance with [Regulation (EU) No XXX/XXX (EU Asylum Agency Regulation)]¹³⁰.¹³¹**
3. To implement targeted Union resettlement schemes, and in particular to conduct pre-departure orientation programmes, fit-to-travel medical checks, travel arrangements and other practical arrangements, Member States may be assisted by **relevant** partners in accordance with local coordination and practical cooperation arrangements for targeted Union resettlement schemes¹³² established in accordance with point (d) of Article 8(2)¹³³.

¹²⁸ **ES:** like support from EUAA but is a fairly vague article. **PL:** add that the EUAA can also facilitate cooperation with third countries.

¹²⁹ **FR:** draft as follows, consistently with previous comments: "~~targeted~~ Union ~~resettlement~~ scheme *plans*".

¹³⁰ OJ L [...], [...], p. [...].

¹³¹ **BG, CZ:** scrutiny reservation.

¹³² **FR:** draft as follows, consistently with previous comments: "~~targeted~~ Union ~~resettlement~~ scheme *plans*".

¹³³ **DE:** delete "established in accordance with point (d) of Article 8(2)."

Article 13¹³⁴

High-Level Resettlement Committee

1. A High-Level Resettlement Committee shall be established, composed of representatives of the European Parliament, the Council, the Commission, the High Representative of the Union for Foreign Affairs and Security Policy, and the Member States. [The European Union Agency for Asylum,] UNHCR¹³⁵, ~~and~~ IOM, **and other relevant organisations** may be invited. Representatives of Iceland, Liechtenstein, Norway, and Switzerland shall be invited to attend the meetings of the High-Level Resettlement Committee where they have indicated their intention to be associated with the implementation of the ~~annual~~ Union resettlement plan.
2. The High-Level Resettlement Committee shall be chaired by the Commission. It shall meet whenever necessary at the invitation of the Commission or at a request of a Member State and shall meet at least once a year.
3. The Commission shall consult the High-Level Resettlement Committee on issues related to the implementation of the Union Resettlement Framework.

¹³⁴ **AT, NL** against creating additional layers. What is the added value of the Committee?. **CZ, DE, SE:** scrutiny reservation. **IE:** the Committee should be involved in the development of the Annual Resettlement Plan, not just in the implementation. Their role and specific tasks should be more clearly defined within this article. **ES:** the tasks of the Committee are only listed in a recital and not in the body of the text. Would like to have more explained functions. **HU:** need more clearer role for the Committee.

¹³⁵ **DE, SE:** EUAA and UNHCR should regularly be invited. **FR, ES:** UNHCR should be full member. **SE:** also notes the existing EU Resettlement and Relocation Forum, in which UNHCR, IOM and EUAA generally take part. On an international level this is provided for by the ATCR to which all resettlement states and organisations participate.

Article 14¹³⁶

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 10(9) shall be conferred on the Commission for an ~~indefinite~~ period of ~~five~~ **five years** from the date of entry into force of this Regulation. **The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.**
3. The delegation of power referred to in Article 10(9) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016¹³⁷.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

¹³⁶ **AT, FR, SK, LT** delete article. **CZ, PL:** reservations. **DE:** general scrutiny reservation. The level of involvement of MS is low, and this argues for the preference of a directive/enhanced cooperation. Participating EU MS must be able to take the decision whom they admit from where themselves. **IE:** needs greater clarification. **ES:** scrutiny reservation in parallel to art 10.9. **SE:** with reference to SE stance to Article 10 (para 9), scrutiny reservation on paragraphs 2, 3, 6.

¹³⁷ OJ L 123, 12.5.2016, p. 1.

6. A delegated act adopted pursuant to Article 10(9) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by **another** two months at the initiative of the European Parliament or of the Council.

Article 15¹³⁸

Committee procedure

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.¹³⁹

Where the committee delivers no opinion, the Commission shall adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

Article 16

Association with Iceland, Liechtenstein, Norway, and Switzerland

Iceland, Liechtenstein, Norway, and Switzerland shall be invited to be associated with the implementation of the ~~annual~~ Union resettlement plan. The core elements of this Regulation, in particular those related to the resettlement procedure and to the rights and obligations of resettled persons, shall be duly taken into account in that association.

¹³⁸ **DE:** scrutiny reservation. **FR:** delete the Article.

¹³⁹ **ES:** can we say that the adoption of the act requires to have the opinion of the Council?
CLS: we cannot introduce modifications in Comitology, but it is clear that when there is no opinion of the Committee, then the Commission cannot adopt the act.

[Article 17
*Amendments to Regulation (EU) No 516/2014*¹⁴⁰

Regulation (EU) No 516/2014 is amended as follows:

(1) in Article 1, point (d) of paragraph 2 is deleted.

(2) Article 2 is amended as follows:

a) point (a) is replaced by the following:

'(a)'resettlement' means the admission of third-country nationals or stateless persons in need of international protection from a third country to which or within which they have been displaced to the territory of one of the Member States with a view to granting them international protection';¹⁴¹

¹⁴⁰ **DE:** national programmes should also continue to be eligible for EU funding. Secondary movements need to be taken into account when giving the money, i.e. only if the person resettled still lives in the country after a period of e.g. 24 months. **SE:** scrutiny reservation. Supports DE, important that national programs are not jeopardised. **SI:** reservation. **BE, NL:** important to finance also national programmes, e.g. giving 6 000 EUR for the national programs. **FI, FR, UK:** finance also national programmes.

¹⁴¹ **EE, EL, ES, IE, FR, PL, PT:** scrutiny reservation because it includes IDP. **FR:** In conformity with our working proposal in Article 2 it should read as follows: "points (a) and (b) is are replaced by the following: (a) *'resettlement' means the admission of third country nationals and stateless persons in need of international protection from a third country to which or within which they have been displaced to the territory of the Member States with a view to granting them international protection. upon referral from the UNHCR the transfer of third country nationals and stateless persons in need of international protection from a third country to which they have been displaced to the territory of a Member State that has agreed to admit them , with a view of granting them a status provided in the Qualification Regulation or an equivalent status;* (b) *'other forms of humanitarian admission' means the admission of third-country nationals or stateless persons in need of international protection from a third country to which or within which they have been displaced through a process other than resettlement within the meaning of this Regulation, based on national procedures.*"

b) the following points (aa) and (ab) are inserted¹⁴²:

'(aa) 'Union Resettlement Framework' means the Union Resettlement Framework established in accordance with [Regulation (EU) No XXX/XXX (Resettlement Framework Regulation)];

(ab) 'targeted Union resettlement scheme' means a targeted Union resettlement scheme established in accordance with Article 15(2) of [Regulation (EU) No XXX/XXX (Resettlement Framework Regulation)]'.

(3) Article 17 is replaced by the following:

'Article 17

Resources for the Union Resettlement Framework

¹⁴² **FR:** Consistent with the proposal to delete reference to the targeted scheme, draft as follows: " (b) the following points (~~aba~~) and (~~abb~~) are inserted: '~~aba~~) 'Union Resettlement Framework' means the Union Resettlement Framework established in accordance with [Regulation (EU) No XXX/XXX (Resettlement Framework Regulation)]; (~~abb~~) '~~targeted bi-~~annual Union ~~resettlement scheme~~*plan for resettlement and other forms of humanitarian admission*' means a ~~targeted~~ *bi*-annual Union ~~resettlement scheme~~*plan* established in accordance with Article ~~15~~**7**(2) of [Regulation (EU) No XXX/XXX (Resettlement Framework Regulation)]'.

1. In addition to their allocation calculated in accordance with point (a) of Article 15(1), Member States shall receive for each resettled person in accordance with a targeted Union resettlement scheme a lump sum of EUR 10,000 ¹⁴³.
2. The amount referred to in paragraph 1¹⁴⁴ shall be allocated to the Member States¹⁴⁵ in the individual financing decisions approving their revised national programme in accordance with the procedure laid down in Article 14 of Regulation (EU) 514/2014.
3. Each Member States to whom an amount referred to in paragraph 1 has been allocated shall include in the annual accounts provided for in Article 39 of Regulation (EU) 514/2014¹⁴⁶ the number of persons qualifying for the amount. Transfers of this amount to other actions under the national programme shall not be possible unless explicitly approved by the Commission through a revision of the national programme.¹⁴⁷

¹⁴³ **FR:** Although there should be some incentive for MS's to participate to the common effort, their potential national effort should not be discouraged. This proposal aims at reaching a balance between those two objectives. Draft as follows: "1. In addition to their allocation calculated in accordance with point (a) of Article 15(1), *Member States shall receive every two years an additional amount as set out in point (b) of Article 15(2) based on a lump sum of EUR 6 000 for each person benefitting from resettlement or another form of humanitarian admission.*

1a. The lump sum referred to in paragraph 1 shall be increased to EUR 10 000 receive for each resettled person benefitting from resettlement or another form of humanitarian admission in accordance with a targeted bi-annual Union resettlement scheme plan for resettlement and other forms of humanitarian admission a lump sum of EUR 10,000.

1b. Where appropriate, Member States may also be eligible for lump sums for family members of persons referred to in paragraph 1a, provided that those family members have benefitted from resettlement or another form of humanitarian admission in accordance with this Regulation."

¹⁴⁴ **FR:** should read "paragraphs 1 *to 1b*", consistent with previous comment.

¹⁴⁵ **FR:** add "at least every two years". This would allow for a better visibility and would facilitate the financial organisation.

¹⁴⁶ OJ L 150, 20.5.2014, p. 112.

¹⁴⁷ **AT:** prefers a separate payment for resettlement. Suggests the following text: "3. Each Member States to whom an amount referred to in paragraph 1 has been allocated shall include in the annual accounts provided for in Article 39 *submit* the number of persons qualifying for the amount *together with the other necessary information for the annual accounts, but the Resettlement - payment is no part of the regular annual accounts regarding the annual programs of the member states. Regarding Resettlement, there will be a separate payment from the European Commission to the Member States. Transfers of this amount to other actions under the national programme shall not be possible unless explicitly approved by the Commission through a revision of the national programme*".

4. Member States shall keep the information necessary to allow the proper identification of the resettled persons and of the date of their resettlement.
 5. Allocations made before [date of entry into force of [Regulation (EU) No XXX/XXX (Resettlement Framework Regulation)] shall not be affected.'
- (4) the term 'Union Resettlement Programme' is replaced by the term 'Union Resettlement Framework'.
- (5) Annex III is deleted.]

Article 18

Evaluation and Review

1. By ~~31 December 2018~~ **two years after the entry into force of this Regulation** the Commission shall report to the European Parliament and the Council on the application of this Regulation in the Member States.
2. Member States shall provide the Commission and [the European Union Agency for Asylum]¹⁴⁸ with the necessary information for drawing up its report for the purpose of paragraph 1 in addition to the information provided to [the European Union Agency for Asylum] on the number of third-country nationals and stateless persons effectively resettled ~~on a weekly~~¹⁴⁹ basis as laid down in Article 22(3) of [Regulation (EU) No XXX/XXX (Dublin Regulation)].¹⁵⁰

¹⁴⁸ **CZ:** delete reference to EUAA. According to para 1 the Commission has the obligation to report on the application and not EUAA.

¹⁴⁹ **AT, DE, IE, ES, FR, IT, NL, LT:** prefer "monthly" rather than "weekly". **CZ:** this time limits should be in brackets and modified following agreement in the Dublin Regulation proposal.

¹⁵⁰ **CZ, PL:** scrutiny reservation. Alternatively the whole paragraph should be deleted due to duplicity with the Dublin Regulation proposal. **IE:** scrutiny reservation, linked to our reservation on the relevant article of the proposal to recast the Dublin Regulation. In those discussions it was said that providing information on a weekly basis was an unnecessary administrative burden and that notifications should only be made upon admittance of resettled persons. **ES:** scrutiny reservation.

3. The European Parliament and the Council shall, on the basis of the proposal of the Commission, taking into account the report referred to in paragraph 1, review this Regulation **within two years of the submission of the report by the Commission** ~~by 30 June 2020~~.

Article 19

Entry into force

This Regulation shall enter into force on the [...] day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Brussels,

For the European Parliament

The President

For the Council

The President
