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European Union

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**LIMITE**

**ASIM 47**

#### **'I' ITEM NOTE**

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From:	General Secretariat of the Council
To:	Permanent Representatives Committee (Part 2)
No. Cion doc.:	7331/16 ASIM 44
No. prev. doc.:	7642/16 ASIM 48
Subject:	Draft Council Decision amending Council Decision (EU) 2015/1601 of 22 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and Greece

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1. On 21 March 2016, the Commission submitted to the Council a proposal for a Council Decision amending Council Decision (EU) 2015/1601 of 22 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and Greece.
2. The aim of the proposal is to implement the EU-Turkey Statement of 18 March 2016 by allowing Member States to meet some of their obligations under the relocation decision by admitting to their territory Syrian nationals present in Turkey under national or multilateral legal admission schemes.
3. The proposal was examined by the JHA Counsellors at their meetings on 23 March and 4 April 2016 and by the Asylum Working Party on 11-12 April 2016. Delegations expressed broad support for the text of the draft Council decision. At this stage, only HU and SI have scrutiny reservations on the text. However, both delegations have indicated they should be able to define their final positions shortly.

4. On 6 April 2016, the Council decided to consult the European Parliament on this proposal.
  5. On this basis, Coreper is requested to confirm the agreement on the text of the draft Council decision as it appears in Annex. After the European Parliament will have delivered its opinion, and following the revision of the text by legal-linguistic experts, the decision will be submitted to the Council for adoption.
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Draft

**COUNCIL DECISION**

**amending Council Decision (EU) 2015/1601 of 22 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and Greece**

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Parliament<sup>1</sup>,

Whereas:

- (1) On the basis of Article 78(3) TFEU, the Council adopted two Decisions establishing provisional measures in the area of international protection for the benefit of Italy and Greece. Under Council Decision (EU) 2015/1523<sup>2</sup>, 40 000 applicants for international protection are to be relocated from Italy and Greece to the other Member States. Under Council Decision (EU) 2015/1601<sup>3</sup>, 120 000 applicants for international protection are to be relocated from Italy and Greece to other Member States.

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<sup>1</sup> OJ C , , p. .

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

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

- (2) Under Article 4(2) of Decision (EU) 2015/1601, as of 26 September 2016, 54 000 applicants should be relocated from Italy and Greece to the territory of other Member States unless by that date, pursuant to Article 4(3), the Commission makes a proposal to allocate them to another beneficiary Member States confronted with an emergency situation characterised by a sudden inflow of persons.
- (3) Article 1(2) of Decision (EU) 2015/1601 provides that the Commission is to keep under constant review the situation regarding massive inflows of third country nationals into Member States. The Commission should submit, as appropriate, proposals to amend that Decision in order to take into account the evolution of the situation on the ground and its impact upon the relocation mechanism, as well as the evolving pressure on Member States, in particular frontline Member States.
- (4) With the aim of ending irregular migration from Turkey to the EU, on 18 March<sup>4</sup>, the EU and Turkey agreed on a number of action points, including to resettle, for every Syrian readmitted by Turkey from Greek islands, another Syrian from Turkey to the Member States, within the framework of the existing commitments. Resettlement under this mechanism will take place, in the first instance, by honouring the commitments taken by Member States in the conclusions of Representatives of the Governments of Member States meeting within the Council on 20 July 2015. Any further need for resettlement will be carried out through a similar voluntary arrangement up to a limit of an additional 54.000 persons by allowing for any resettlement commitment undertaken in the framework of this arrangement to be offset from non-allocated places under Decision (EU) 2015/1601.

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<sup>4</sup> EU-Turkey Statement of 18 March.

- (5) Resettlement, humanitarian admission, or other forms of legal admission from Turkey under national and multilateral schemes can be expected to relieve the migratory pressure on Member States which are beneficiaries of relocation under Decision (EU) 2015/1601 by providing a legal and safe pathway to enter the Union and by discouraging irregular entries. Therefore, the solidarity efforts of Member States consisting in voluntarily admitting to their territory Syrian nationals present in Turkey who are in clear need of international protection should be taken into account in relation to the 54 000 applicants for international protection referred to above. The number of persons so admitted from Turkey by a Member State should be deducted from the number of persons to be relocated to that Member State under Decision 2015/1601 in relation to those 54 000 applicants.
- (6) Mechanisms for admission may include resettlement, humanitarian admission or other legal pathways for admission of Syrian nationals present in Turkey who are in clear need of international protection, such as humanitarian visa programmes, humanitarian transfer, family reunification programmes, private sponsorship projects, scholarship programmes, labour mobility schemes, and others.
- (7) The commitments that Member States undertook as part of the resettlement scheme agreed in the Conclusions of the Representatives of the Governments of the Member States meeting within the Council of 20 July 2015 should not be affected by this Decision and should not count towards meeting the obligations under Decision 2015/1601. Therefore, a Member State which chooses to meet its obligations under Decision (EU) 2015/1601 by admitting Syrians present in Turkey through resettlement, cannot count this effort as constituting part of its commitment under the 20 July 2015 resettlement scheme.
- (8) To ensure a proper monitoring of the situation, a Member States should, once it chooses to use this option, report on a monthly basis to the Commission on Syrians present in Turkey admitted to their territory under the option provided for in this amendment specifying under which scheme, national or multilateral, the person has been admitted and the form of legal admission.

- (9) Since the objectives of this Decision cannot be sufficiently achieved by the Member States but can rather, by reason of the scale and effects of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union (TEU). In accordance with the principle of proportionality, as set out in that Article, this Decision does not go beyond what is necessary in order to achieve those objectives.
- (10) This Decision respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union.
- (11) In accordance with Articles 1 and 2 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the TEU and to the TFEU, and without prejudice to Article 4 of that Protocol, the United Kingdom is not taking part in the adoption of this Decision and is not bound by it or subject to its application.
- (12) In accordance with Articles 1 and 2 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the TEU and to the TFEU, and without prejudice to Articles 4 and 4a of that Protocol, Ireland is not taking part in the adoption of this Decision and is not bound by it or subject to its application.
- (13) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the TEU and to the TFEU, Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application.
- (14) In view of the urgency of the situation, this Decision should enter into force on the date following that of its publication in the *Official Journal of the European Union*,

HAS ADOPTED THIS DECISION:

## *Article 1*

In Article 4 of Decision (EU) 2015/1601 the following paragraph 3a is inserted:

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

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

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

## *Article 2* ***Entry into force***

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

Done at Brussels,

*For the Council*  
*The President*

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