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COM(2016) 468 final

2016/0225 (COD)

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**

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

#### • Reasons for and objectives of the proposal

The Union is working towards an integrated, sustainable and holistic migration policy, based on solidarity and fair sharing of responsibilities, which can function effectively both in times of calm and crisis. The *European Agenda on Migration*<sup>1</sup> laid the foundation for the Commission's continuous work to address both the immediate and the long-term challenges of managing migration flows effectively and comprehensively.

Resettlement of third-country nationals or stateless persons is one of the avenues that can be offered to displaced persons in need of international protection to allow them to enter the Member States legally and safely and receive protection for as long as they need. It is also a tool of international solidarity and responsibility sharing with third countries to which or within which a large number of persons in need of international protection has been displaced as well as of migration and crisis management.

Resettlement is an integral part of the larger objective of ensuring that protection can be offered to those who need it while reducing the irregular and dangerous routes that are used to obtain such protection, preventing the smuggling networks to profit from it, and 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.

The United Nations High Commissioner for Refugees (UNHCR) estimates that the number of people in need of resettlement in 2017 will surpass 1.19 million worldwide, while only approximately 80,000 persons were resettled worldwide in 2015. UNHCR has over the past years urged the Union and its Member States to increase commitments to receive refugees through sustainable resettlement programmes, among others, by endorsing the 2012 campaign led by the International Organisation for Migration (IOM) and five non-governmental organisations active in the field of refugee protection, to resettle 20,000 people every year by 2020.<sup>2</sup>

As announced in its Communication of 6 April 2016 *Towards a reform of the Common European Asylum System and enhancing legal avenues to Europe*<sup>3</sup>, the Commission aims to create a more structured, harmonised, and permanent framework for resettlement across the Union, building on existing experiences. Such framework to guide future resettlement efforts in the Union is needed as the current absence of a more robust and collective Union approach to resettlement hampers the Union's capacity to achieve its policy objectives. Although resettlement has been done for many years in the EU, so far all initiatives have been either a compilation of national or multilateral programmes, or have been organised in an ad-hoc way.

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<sup>1</sup> COM(2015) 240 final.

<sup>2</sup> Amnesty International, CCME, ECRE, ICMC, and Save me.

<sup>3</sup> COM(2016) 197 final.

Under the European Refugee Fund (ERF) and continued by the Asylum Migration and Integration Fund (AMIF) several aspects of resettlement have been agreed at Union level for the purpose of providing targeted financial incentives, namely through common resettlement priorities. This was complemented by practical collaboration between Member States, including through the European Asylum Support Office (EASO) and the European Resettlement Network.

Building on the existing resettlement and humanitarian admission initiatives in the EU framework as well as on the experience gained through national resettlement programmes, this legislative proposal aims to establish a Union Resettlement Framework with the objective to facilitate the Union policy on resettlement and provide for a collective and harmonised approach with a unified procedure. This would reduce divergences among the national resettlement practices and put the Union in a stronger position to achieve its policy objectives also globally. The Union should be able to speak with one voice in the international fora, make a single pledge to contribute to global resettlement initiatives and thus gain further visibility to EU efforts in order to convince its international partners to assume their share of responsibility, while gradually scaling up Member States' collective resettlement efforts.

In particular, the proposal aims to: provide a common approach to safe and legal arrival in the Union for third-country nationals in need of international protection, thus also protecting them from exploitation by migrant smuggling networks and endangering their lives in trying to reach Europe; help reduce the pressure of spontaneous arrivals on the Member States' asylum systems; enable the sharing of the protection responsibility with countries to which or within which a large number of persons in need of international protection has been displaced and help alleviate the pressure on those countries; provide a common Union contribution to global resettlement efforts.

- **Consistency with existing policy provisions in the policy area**

The proposal is consistent and complementary with the following resettlement and humanitarian admission initiatives undertaken at the EU level.

On 20 July 2015, Representatives of the Governments of the Member States meeting within the Council adopted Conclusions<sup>4</sup> to resettle 22,504 persons in clear need of protection through multilateral and national schemes, together with Associated States, based on the Commission's *Recommendation on a European Resettlement Scheme*<sup>5</sup> to resettle 20,000 people. The Commission reports regularly about the implementation of these Conclusions, notably through its Relocation and Resettlement Reports<sup>6</sup>.

On 15 December 2015, the Commission adopted a *Recommendation for a Voluntary Humanitarian Admission Scheme with Turkey*<sup>7</sup> to create solidarity and responsibility sharing with Turkey for the protection of persons displaced by the conflict in Syria to Turkey, many

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<sup>4</sup> 11097/15.

<sup>5</sup> C(2015) 3560 final.

<sup>6</sup> Ref to report to be adopted on 13 July.

<sup>7</sup> C(2015) 9490.

elements of which formed part of the implementation of the EU-Turkey Statement of 18 March 2016. It was agreed in the EU-Turkey Statement that, for every Syrian being returned to Turkey from Greek islands, another Syrian will be resettled from Turkey to the EU, taking into account the UN Vulnerability Criteria.

On 21 March 2016, the Commission tabled a proposal for a Council Decision amending Council Decision (EU) 2015/1601 establishing provisional measures in the area of international protection for the benefit of Italy and Greece<sup>8</sup>. This proposal enables the Member States to use 54,000 places initially foreseen for relocation available for the purpose of admitting Syrians from Turkey through resettlement, humanitarian admission or other legal pathways. Member States would therefore be able to subtract from the number of applicants to be relocated the number of Syrians resettled to their territory from Turkey. These numbers would be in addition to the commitments carried out under the resettlement Conclusions of 20 July 2015.

The proposed Regulation is an essential part of the Common European Asylum System and is fully consistent with the first package of legislative proposals to reform it, presented on 4 May 2016, including proposal for recast of the Dublin III Regulation<sup>9</sup>, recast of the EURODAC Regulation,<sup>10</sup> and a proposal for establishing a European Union Agency for Asylum<sup>11</sup> as well as with the second package of legislative proposals, which includes the reform of the Asylum Procedures<sup>12</sup>, Reception Conditions<sup>13</sup> and Qualification<sup>14</sup> Directives.

The fairness mechanism set out in the proposal for the reform of the Dublin III Regulation will factor in the number of persons in need of international protection effectively resettled by Member States. For the purpose of calculating the corrective allocation mechanism the number of resettled persons will be added to the number of applications for international protection. This acknowledges the importance given to efforts to implement legal and safe pathways to Europe.

To ensure compatibility with the asylum acquis, persons selected for resettlement should be granted international protection. Accordingly, the provisions on the content of international protection contained in the asylum acquis should apply once resettled persons are on the territory of the Member States. Moreover, it would be appropriate to amend Regulation xxxx/xx/EU [new recast EURODAC Regulation] to ensure that Member States may store data of resettled persons in the EURODAC system, where they are treated as applicants for international protection even though they have not lodged an application for international protection in the Member States. This would allow Member States to track possible secondary movements of resettled persons from the Member State of resettlement to other Member States.

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<sup>8</sup> COM(2016) 171 final.

<sup>9</sup> COM(2016) 270 final

<sup>10</sup> COM(2016) 272 final

<sup>11</sup> COM(2016) 271 final.

<sup>12</sup> COM(2016) xxx final.

<sup>13</sup> COM(2016) xxx final.

<sup>14</sup> COM(2016) xxx final.

[The European Union Agency for Asylum] will have a role in the implementation of the Resettlement Framework as Member States will be able to request its assistance in coordinating technical cooperation and facilitating the sharing of infrastructure, in accordance with the proposal for establishing a European Union Agency for Asylum.

Success or failure of resettlement also depends on early, effective, and successful integration of resettled persons. The *Action Plan on the integration of third country nationals*<sup>15</sup> presented on 7 June 2016 will also contribute in this regard. Among its priority actions the plan foresees engagement in pre-departure/pre-arrival measures targeting both those arriving from third countries and the receiving society. Such measures can be beneficial for individuals whatever their reasons for moving legally to the EU, but they can be particularly important to prepare the resettlement of persons in need of protection.

This Regulation should be applied without prejudice to Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States.

Mobilising different policies and tools to step up the Union's diplomatic, technical and financial cooperation with third countries in migration management is of particular importance. As announced in the Commission Communication on *establishing a new Partnership Framework with third countries under the European Agenda on Migration*<sup>16</sup> the Union will seek partnerships with key third countries of origin and transit through a coherent and tailored engagement where the Union and its Member States act in a coordinated manner. This Partnership Framework should, among others, enhance support for those in need of protection in their countries of origin and transit and create genuine prospects of resettlement to the Union to discourage irregular and dangerous journeys and save lives. This legislative proposal is a direct demonstration of the Union's commitment to helping countries under the heaviest migratory pressure and dissuading people from taking dangerous journeys through offering alternative legal pathways.

- **Consistency with other Union policies**

This proposal is consistent with the comprehensive long-term policy on better migration management as set out by the Commission in the *European Agenda on Migration*, which developed President Juncker's Political Guidelines into a set of coherent and mutually reinforcing initiatives based on four pillars. Those pillars consist of reducing the incentive for irregular migration, securing external borders and saving lives, a strong asylum policy and a new policy on legal migration.

This proposal, which further implements the objective of strengthening the Union's asylum policy, should be seen as part of the broader policy at EU level towards building a robust and effective system for sustainable migration management for the future.

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<sup>15</sup> COM(2016) 377 final.

<sup>16</sup> COM(2016) 385 final.

## **2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY**

### **• Legal basis**

This proposal is part of the measures constituting the Common European Asylum System. It seeks to contribute to managing inflows of third-country nationals or stateless persons applying for international protection by providing legal pathways to international protection in partnership and cooperation with third countries. The proposal aims to establish a Union Resettlement Framework with common procedures for the admission of third-country nationals or stateless persons in need of international protection from a selected third country, to which or within which they have been displaced to the territory of the Member States with a view to offering them international protection. The proposal is therefore based on points (d) (common procedures), and (g) (partnership and cooperation with third countries) of Article 78(2) TFEU. This legal basis commands the ordinary legislative procedure.

### **• Variable Geometry**

In accordance with the provisions of Protocol No 21 annexed to the TFEU on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, the United Kingdom and Ireland do not take part in the adoption by the Council of proposed measures pursuant to Title V of Part Three of the TFEU. The United Kingdom and Ireland may notify the Council, within three months after a proposal or initiative has been presented, that they wish to take part in the adoption and application of any such proposed measures, or at any time after its adoption, that they accept that measure.

In accordance with the provisions of Protocol No 22 on the position of Denmark, annexed to the TFEU, Denmark does not take part in the adoption by the Council of proposed measures pursuant to Title V of Part Three of the TFEU. At any time Denmark may, in accordance with its constitutional requirements, notify the other Member States that it wishes to apply in full all relevant measures adopted on the basis of Title V of the TFEU.

The European Community has concluded agreements with Iceland, Norway, Switzerland and Liechtenstein associating them to the “Dublin/Eurodac acquis”. This proposal does not constitute a development of the “Dublin/Eurodac acquis” and there is therefore no obligation on behalf of the associated states to notify to the Commission their acceptance of this Regulation, once adopted by the European Parliament and the Council. The Associated States may nevertheless decide to voluntarily participate in the Union Resettlement Framework established by this Regulation.

### **• Subsidiarity**

Harmonising to a certain extent the practices of Member States with regard to resettlement makes it more likely that persons eligible for resettlement will not refuse to be resettled to one Member State as opposed to another. Such harmonisation would also increase the overall influence of the Union vis-à-vis third countries in policy and political dialogues and sharing the responsibility with third countries to which or within which a large number of persons in need of international protection has been displaced. These objectives cannot be sufficiently

achieved by the Member States alone, but can rather, by reason of the scale and effects of the Union Resettlement Framework, be better achieved at Union level.

- **Proportionality**

The form of a Regulation and its content do not exceed what is necessary to achieve the objectives of the proposal, namely to (a) reduce divergences among national resettlement practices and procedures, (b) provide for the legal and safe arrival to the territories of the Member States of third-country nationals or stateless persons in need of international protection, (c) help reduce the risk of a large-scale irregular inflow of third-country nationals or stateless persons to the territories of the Member States, thereby reducing the pressure of spontaneous arrivals on the Member States' asylum systems, (d) 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 alleviate the pressure on those countries, (e) help achieve the Union's foreign policy objectives by increasing the Union's leverage vis-à-vis third countries, and (f) effectively contribute to global resettlement initiatives through speaking with one voice in international fora and with third countries.

The content is building on the experience with existing resettlement initiatives in the EU framework and existing resettlement practices 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.

- **Choice of the instrument**

A Regulation is chosen so as to achieve a degree of convergence for the resettlement procedure that corresponds to the degree of convergence for the asylum procedure, for which a Regulation is also proposed. While building on the existing resettlement practices of the Member States, in particular the Standard Operating Procedures guiding the implementation of the resettlement scheme with Turkey set out in the Statement of 18 March 2016, a Regulation allows for achieving a higher degree of convergence of those resettlement practices than a Directive, which is not directly applicable and leaves the choice of form and method to Member States. This higher degree of convergence will allow more synergies in the implementation of the Union Resettlement Framework and contribute to discouraging persons eligible for resettlement from refusing resettlement to a particular Member State as well as discouraging secondary movements of persons resettled. In addition, the annual Union resettlement plans and the targeted Union resettlement schemes that are essential for the operationalisation of the Union Resettlement Framework are foreseen to be adopted by the institutions of the Union, for which a Regulation is the appropriate instrument.

### **3. RESULTS OF STAKEHOLDER CONSULTATIONS**

Consultations with the Member States and Associated States as well as with the United Nations High Commissioner for Refugees (UNHCR), the International Organisation for Migration (IOM), and EASO took place within the sixth Resettlement and Relocation Forum of 6 April 2016. These stakeholders were consulted on the basis of a discussion document which had been sent to them in advance of the meeting.

All these stakeholders agreed on the need for increased efforts in offering safe and legal pathways to international protection in the Union in place of dangerous and irregular arrivals. The Union's responsibility to take on a visible role in global resettlement efforts and the need for more coordination of the Member States' resettlement efforts were underlined by many stakeholders.

While some advocated for a legally binding framework with a participation of all Member States on the basis of a single Union resettlement commitment and sharing of responsibilities among the Member States on the basis of a fair distribution key, others were more in favour of voluntary commitments by the Member States.

There was a common recognition that resettlement can in some circumstances be used as leverage in policy and political dialogues with third countries possibly also through targeted and tailor made strategies.

A number of stakeholders recalled the discussions on Standard Operating Procedures guiding the resettlement scheme with Turkey, set out in the EU-Turkey Statement of 18 March 2016 and reflected on the possibility for several of its elements to be replicated in a common Union approach to resettlement. While a number of Member States were in favour of the possibility to share infrastructures and deploy joint selection missions to reduce costs, most were against shared arrangements also in terms of security checks.

Many stakeholders underlined the special role of the UNHCR in the process, in particular its role as regards the identification of persons who are eligible for resettlement. The possibility for other actors, such as EASO and IOM, to play an important role in implementing practical arrangements was also supported.

All Member States underlined the importance of Union funding to support resettlement efforts.

- **Fundamental rights**

This proposal is without prejudice to the right to asylum and the protection from refoulement in accordance with Articles 18 and 19 of the Charter of Fundamental Rights of the European Union (the 'Charter'). The need to promote and respect the rights of the child, the right to family life and the right to protection of personal data as guaranteed, respectively, by Articles 24, 7 and 8 of the Charter have been duly taken into consideration in the design of the Union Resettlement Framework, and in particular when defining the eligibility criteria for resettlement under Article 5 of the proposal and the resettlement procedure under Articles 10 and 11 of the proposal.

In this context, particular attention shall be paid to the rights and principles enshrined in the UN Convention on the Rights of the Child when implementing and applying this Regulation and the delegated acts adopted on its basis.

Likewise, in the light of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention), a gender-sensitive approach should be adopted when interpreting and applying this Regulation.



The proposal also upholds the general principles of equality and non-discrimination, insofar as it contains an explicit prohibition of discrimination for the Member States, including on grounds of 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, when taking into account social or cultural links, or other characteristics that can facilitate integration in the participating State. This is without prejudice to cases where a difference in treatment is necessary for the application of the scope of a targeted Union resettlement scheme and of the eligibility criteria in accordance with points (a) and (b) of Article 5.

#### **4. BUDGETARY IMPLICATIONS**

For each resettled person under this proposal Member States taking part in the Regulation (EU) No 516/2014 of the European Parliament and the Council of 16 April 2014 establishing the Asylum, Migration and Integration Fund (AMIF) will be entitled to EUR 10,000 from the Union's budget. The maximum total number of persons to be resettled to the Union each year will be determined through Council implementing acts establishing annual Union resettlement plans.

The financial year 2017 should be seen as a transitional year between the resettlement scheme conducted under the Conclusions of 20 July 2015 to resettle through multilateral and national schemes, together with Associated States, 22,504 persons in clear need of protection, and the entry into force of this proposal. Consequently the budgetary implications for 2017 should be lower than for the subsequent years.

#### **5. OTHER ELEMENTS**

- **Detailed explanation of the specific provisions of the proposal**

The proposal establishes a **Union Resettlement Framework** for the annual resettlement of a certain number of third-country nationals or stateless persons to the territory of the Member States.

It aims to enable the Union to provide for legal and safe arrival of third-country nationals or stateless persons in need of international protection, contribute to the reduction of the risk of a large-scale irregular inflow of third-country nationals or stateless persons in need of international protection to the territory of the Member States, and contribute to international resettlement initiatives.

The essential elements of the Framework, such as the establishment of common Union rules on admission of third-country nationals through resettlement, including the rules on eligibility criteria and exclusion grounds, the standard procedures governing all stages of the resettlement process, the status to be accorded to resettled persons, the decision making procedures to ensure uniform conditions for the implementation of the Framework, and the financial support to the Member States' resettlement efforts are set out in this legislative proposal. The implementation thereof will include the setting of annual Union resettlement

plans through Council implementing acts and the adoption of targeted Union resettlement schemes through Commission implementing acts.

The main elements of the proposal are:

– **Resettlement**

Resettlement means the admission to the territory of the Member States of third country nationals in need of international protection who have been displaced from or within their country of nationality, for the purpose of granting them international protection. The same applies to stateless persons in need of international protection displaced from or within their country of former habitual residence.

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

In the implementing acts establishing targeted Union resettlement schemes and the annual Union resettlement plans, the Commission and the Council shall, when specifying the regions or third countries from which resettlement shall take place, take into account a number of factors which indicate the situation of persons in need of protection, the countries from which resettlement should take place, and the number of persons in need of international protection displaced to or within the specific regions or third countries. Third countries' effective cooperation with the Union in the area of migration and asylum will be an important element on which the Commission will base its decision. Such cooperation should be reflected in terms of the third country's efforts to reduce the number of third-country nationals or stateless persons irregularly crossing the Union's border from its territory, their cooperation with the Union on readmission and return of third-country nationals or stateless persons irregularly staying in the territory of the Member States, and increasing their capacity for the reception and protection of persons in need of international protection, including through the development of an effective asylum system.

– **Persons to be resettled**

This legislative proposal sets out eligibility criteria (Article 5) and exclusion grounds (Article 6) for persons who may be considered for resettlement. Both provisions must be respected in addition to the requirement that the person falls within the scope of each targeted Union resettlement scheme adopted through a Commission implementing act. This proposal does not create any right to be admitted to the territory of the Member States for the purpose of being granted international protection.

(a) **Eligibility**

The possibility for resettlement is foreseen for those third-country nationals or stateless persons who have been displaced not only to another country but also within their own country due to a well-founded fear of persecution or due to substantial grounds for believing that they would face a real risk of suffering serious harm.

Persons falling within at least one of the following vulnerability categories – 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 medical needs or

disabilities; persons with legal and/or physical protection needs; and persons with socio-economic vulnerability – shall be eligible for resettlement under the targeted Union resettlement schemes. Persons with family links to third-country nationals or stateless persons or Union citizens legally residing in a Member State or who are dependent on them shall also be eligible. The inclusion of persons with socio-economic vulnerability and those with family links widens the classical resettlement categories ordinarily conducted through the UNHCR referral and follows the approach agreed within the Standard Operating Procedures guiding the implementation of the resettlement scheme with Turkey set out in the EU-Turkey Statement of 18 March 2016.

#### **(b) Exclusion**

Member States should not resettle third-country nationals or stateless persons who do not meet the eligibility criteria or who fall within the scope of an obligatory exclusion ground.

The obligatory exclusion grounds comprise: a) the exclusion grounds of the Qualification Regulation<sup>17</sup> – those applying to persons otherwise eligible for subsidiary protection are also to be applied to persons qualifying as refugees; b) the grounds for refusing entry at the border<sup>18</sup>, c) the grounds for not renewing or for revoking a residence permit in accordance with the Qualification Regulation.

Persons who have irregularly entered, irregularly stayed in, or attempted to irregularly enter into the territory of the Member States during the last five years prior to resettlement shall also be excluded. Persons to be excluded from resettlement include also those already resettled by another Member State under a targeted Union resettlement scheme or in the implementation of the existing Union resettlement initiatives. Exclusion also applies to third-country nationals and stateless persons whom a Member State has during the last five years prior to resettlement refused to resettle.

The optional exclusion ground foresees that Member States may refuse resettlement of third-country nationals or stateless persons to whom one of the exclusion grounds referred to in points (a) or (b) of Article 6(1) applies *prima facie*.

Member States may make prior consultation arrangements to apply the exclusion grounds.

#### **– Standard Resettlement Procedures**

This proposal sets common standard procedures building on the existing resettlement experience and standards of the Member States, including 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 for two types of standard resettlement procedures: **an ordinary** or an **expedited** resettlement procedure. Each targeted Union resettlement scheme will determine which of these standard procedural rules should apply to its implementation.

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<sup>17</sup> Regulation (EU) No XXX/XXX (Qualification Regulation).

<sup>18</sup> Regulation (EC) No 562/2006 (Schengen Borders Code).

**(a) Ordinary procedure**

The ordinary procedure reflects the resettlement standards and practices usually followed by Member States. It is based on a full refugee status determination in the third country and on Member States granting to the resettled third-country nationals or stateless persons, preferably, refugee status, or subsidiary status. The procedure should be conducted as soon as possible and within eight months from the moment when Member States have registered the third-country nationals or stateless persons. This period may be extended by four months.

Detailed steps in the procedure include:

Member States **identify** persons for whom they intend to conduct the resettlement procedure either through the **referral** by UNHCR, or where applicable, the [European Union Agency for Asylum] or relevant international bodies, or by themselves, without such referral. When basing their identification on a referral from one of these entities, Member States may ask them for a full assessment of whether the third-country nationals or the stateless persons meet the requirements for a specific targeted Union resettlement scheme and of whether they fall under one of the vulnerability categories set out in point (b)(i) of Article 5. In case of a referral by UNHCR, Member States may in addition ask UNHCR to fully assess whether the persons referred to them qualify as refugees in the meaning of the 1951 Geneva Convention.

After **registering** the third-country nationals or the stateless persons for whom they intend to conduct the resettlement procedure, Member States will **assess** whether these persons meet the eligibility criteria set out in Article 5 and whether they are not excluded in accordance with the grounds set out in Article 6(1).

In case of a **positive decision** Member States will grant to the persons to be resettled refugee status or subsidiary protection status. The decision to grant refugee status or subsidiary protection status has the same effects as a decision to grant refugee status or to grant subsidiary protection status referred to in Articles 13 and 19 of the [Qualification Regulation], once the person concerned has entered the territory of a Member State.

After a positive decision, Member States will offer to make all arrangements necessary for the departure of the third-country nationals or the stateless persons and, with a view to facilitating a rapid, smooth, and effective integration into the host society, offer a pre-departure orientation programme.

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. That storage period is considered necessary to allow Member States to exclude from resettlement 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, as provided for by this proposal.

Once the person with regard to whom a positive decision to resettle was taken enters the territory of the Member States, the provisions on the content of international protection contained in the asylum acquis should apply, including the rules to discourage secondary

movement of beneficiaries of international protection contained in the Dublin Regulation<sup>19</sup> and in the Long-Term Residence Directive as amended by the Qualification Regulation<sup>20</sup>.

Resettlement should be the preferred avenue to international protection in the territory of the Member States and should not be duplicated by an asylum procedure. Accordingly, applications for international protection of persons resettled via an ordinary procedure, for whom a full assessment of their qualification as a refugee and eligibility as a beneficiary of subsidiary protection has been conducted, would not be admissible.

#### **(b) Expedited procedure**

The expedited procedure reflects the approach agreed in the Standard Operating Procedures guiding the implementation of the resettlement scheme with Turkey set out in the EU-Turkey Statement of 18 March 2016. It is foreseen where there are specific humanitarian grounds or urgent legal or physical protection needs, which warrant a rapid admission of third-country nationals or stateless persons to the territory of the Member States. Such a procedure should be conducted as soon as possible and within 4 four months from the moment when Member States have registered the third-country nationals or stateless persons. This period may be extended by two months. While the same level of security checks should be conducted as in the ordinary 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 status.

In contrast with what applies in the case of the ordinary procedure, when persons are resettled through an expedited procedure, without a refugee qualification assessment being made, they should upon admission to the resettling Member State be admissible to apply for international protection. The Member State to which the person has been resettled should be responsible for the examination of such an application. The Asylum Procedures Regulation should foresee that Member States do not apply the first country of asylum and safe third country concepts when examining the application<sup>21</sup>.

#### **(c) Delegated powers to amend the standard procedures**

Certain flexibility should be provided to adapt the standard procedure to accommodate specific circumstances of a third country from which resettlement is to take place under a specific targeted Union resettlement scheme. By delegated acts, in line with the procedure set out in Article 11, the Commission is authorised to add non-essential elements to the procedure where necessary.

#### **– Decision-making procedures**

This proposal sets a framework which is intended to structure the way in which the Union will implement resettlement commitments. To be able to react to shifting migration flows and evolving international circumstances, however, the framework as such does not determine a

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<sup>19</sup> Article 34(3) Regulation (EU) No XXX/XXX (Dublin Regulation).

<sup>20</sup> Article 44 of Regulation (EU) No XXX/XXX (Qualification Regulation).

<sup>21</sup> Article 36(2) of Regulation (EU) No XXX/XXX (Asylum Procedures Regulation).

number of variable elements, namely the scale of resettlement and the specific third countries or regions from which resettlement shall take place.

**(a) High-Level Resettlement Committee**

A High-Level Resettlement Committee chaired by the Commission will be established to provide political guidance for the implementation of the Union Resettlement Framework.

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 will take part in the committee as well as representatives of Iceland, Liechtenstein, Norway, and Switzerland if these Associated States have indicated their intention to be associated with the implementation of the annual Union Resettlement Framework. [The European Union Agency for Asylum], the UNHCR, and IOM may also be invited.

**(b) Council Implementing Act establishing an annual Union resettlement plan**

The Council is authorised to establish through an implementing act on a proposal of the Commission an annual Union resettlement plan for the following year which determines the maximum total number of persons to be resettled and the number of persons each Member State is to resettle within this total. The annual plan should also indicate overall geographical priorities for resettlement. When adopting such acts the Council should take full account of the discussions within the High-Level Resettlement Committee on the implementation of the Union Resettlement Framework.

Given the important link between the number of persons resettled to the Member States and the Union's budget, the Commission shall make its proposal for the annual Union resettlement plan together with its proposal on the draft Union's annual budget taking into account the financial consequences. The Council should be able to react quickly and adopt an implementing act within two months. While no financial legislative statement has been annexed to this legislative proposal, the financial implications of the Regulation will depend on the total number of persons to be resettled annually.

**(c) Commission Implementing Act establishing a targeted Union resettlement scheme**

The Commission is authorised to establish each year one or more targeted Union resettlement schemes. This should occur as soon as possible after the adoption of and consistent with the annual Union resettlement plan adopted by the Council and also taking into account the discussions within the High-Level Resettlement Committee. The Commission may adopt one or more targeted Union resettlement scheme(s) during the period covered by an annual Union resettlement plan.

For each targeted Union resettlement scheme the Commission will set out a detailed justification, the precise number out of the total number of persons to be resettled and participation of the Member States as set out in the annual Union resettlement plan, as well as a description of the target group(s) of third-country nationals or stateless persons to be resettled and list a specific geographical area covering one or more third countries from which resettlement will take place. The choice of specific geographical priorities for resettlement

will be made in line with Article 4 of the legislative proposal, taking into account the annual resettlement plan and with a view to a potential role of resettlement 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 Migration*<sup>22</sup>.

A launch date and duration of each targeted Union resettlement scheme will also be specified as well as which standard resettlement procedure will apply. An ordinary procedure should be seen as the norm, unless an expedited procedure is warranted on humanitarian grounds or in case of urgent legal or physical protection needs.

– **Cooperation**

Resettlement is a partnership activity and cooperation among various stakeholders is essential, including with the third countries, from which resettlement occurs. Cooperation with other third countries resettling from the same region as Member States could be explored to create synergies. Given the expertise of the 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 States willing to admit them, the UNHCR will continue to play a key role in resettlement under this proposal.

In accordance with [the new European Union Agency for Asylum Regulation] [the European Union Agency for Asylum] may support Member States through coordinating technical cooperation between them, assisting them in the implementation of targeted Union resettlement schemes, and facilitating the sharing of infrastructure.

To implement practical arrangements, and in particular to conduct pre-departure orientation programmes, fit-to-travel medical checks, and travel and other practical arrangements, Member States may also request other partners such as IOM or civil society organisations to assist them.

– **Associated States**

Iceland, Liechtenstein, Norway, and Switzerland are invited to be associated to the implementation of the annual Union resettlement plans. Where they have indicated their intention to be associated, their representatives will be invited to attend the meetings of the High-Level Resettlement Committee. 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 such association.

– **Financial support**

Member States taking part in Regulation (EU) No 516/2014 of the European Parliament and the Council of 16 April 2014 establishing the Asylum Migration and Integration Fund (AMIF) will be entitled to a lump sum of EUR 10,000 from the Union's budget for each person they resettle, regardless whether an ordinary or an expedited procedure has been

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<sup>22</sup> COM(2016) 385 final.

followed. Member States shall only receive these funds when resettling through the Union Resettlement Framework. Resettlements under national resettlement schemes outside of this framework will not be supported financially by the Union's budget.

– **Evaluation and Review**

The Commission shall report on the application of this Regulation to the European Parliament and to the Council in due time for the review of this Regulation. The timing of the review of this legislative proposal should be aligned with that of Regulation (EU) No 516/2014 establishing the Asylum, Migration and Integration Fund due to close links between the two acts.

The information provided by Member States to the European Union Agency for Asylum on the number of third-country nationals effectively resettled on a weekly basis shall feed into the evaluation.



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**

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 Committee<sup>23</sup>,

Having regard to the opinion of the Committee of the Regions<sup>24</sup>,

Acting in accordance with the ordinary legislative procedure,

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."<sup>25</sup>
- (2) In its Communication on a European Agenda on Migration<sup>26</sup> 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 Scheme<sup>27</sup> 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 protection<sup>28</sup>. 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 Turkey<sup>29</sup> to the Member States and Associated

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<sup>23</sup> OJ C , , p. .

<sup>24</sup> OJ C , , p. .

<sup>25</sup> Council Conclusions on "Taking action to better manage migratory flows", Justice and Home Affairs Council meeting, 10 October 2014.

<sup>26</sup> COM(2015) 240 final.

<sup>27</sup> C(2015) 3560 final.

<sup>28</sup> 11097/15.

<sup>29</sup> C(2015) 9490.

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.

- (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 Europe<sup>30</sup> 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 Migration<sup>31</sup> 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) 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

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<sup>30</sup> COM(2016) 197 final.

<sup>31</sup> 2015/2095(INI).

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 Migration<sup>32</sup>.

- (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.
- (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 status.
- (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 images.
- (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.
- (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

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<sup>32</sup> COM(2016) 377 final.

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 2016<sup>33</sup>. 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.

- (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.
- (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 powers<sup>34</sup>. 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.
- (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.
- (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

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<sup>33</sup> OJ L123, 12.05.2016, p. 1.

<sup>34</sup> OJ L 55, 28.2.2011, p. 13.

Member States, including the rules to discourage secondary movement of beneficiaries of international protection.

- (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)<sup>35</sup>, 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.
- (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 Council<sup>36</sup>.
- (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 Regulation, 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.
- (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.

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<sup>35</sup> COM(2016) 270 final.

<sup>36</sup> 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).

- (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,<sup>37</sup> as well as [Regulation (EU) No XXX/XXX (EU Asylum Agency Regulation)<sup>38</sup>] 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]
- 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

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<sup>37</sup> 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).

<sup>38</sup> OJ L [...], [...], p. [...].

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 REGULATION:

*Article 1*  
***Subject matter***

This Regulation 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.

*Article 2*  
***Resettlement***

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.

*Article 3*  
***Union Resettlement Framework***

A Union Resettlement Framework is hereby established.

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

The Union Resettlement Framework shall:

- (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 States;
- (b) contribute to the reduction of 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;
- (c) contribute to international resettlement initiatives.

*Article 4*  
***Regions or third countries from which resettlement is to occur***

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) 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;
- (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;
- (c) the Union's overall relations with the third country or countries from which resettlement occurs, and with third countries in general;
- (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;
  - (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; or
  - (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 agreements;
- (e) the scale and content of commitments to resettlement undertaken by third countries.

*Article 5*  
***Eligibility criteria***

The following third-country nationals or stateless persons shall be eligible for targeted Union resettlement schemes established in accordance with Article 8:

- (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,
  - (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,



and are unable, or, owing to such risk, are unwilling to avail themselves of the protection of that country;

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

(i) vulnerable persons:

- 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; or
- persons with socio-economic vulnerability;

(ii) family members of third-country nationals or stateless persons or Union citizens legally residing in a Member State:

- 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;
- the father, mother or another adult responsible for the unmarried minor to be resettled, whether by law or by the practice of the Member State where the adult is present;
- the sibling or siblings of the third-country nationals or stateless persons to be resettled;
- 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, 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;

(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");

(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.

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

*Article 6*  
***Grounds for exclusion***

1. The following third-country nationals or stateless persons shall be excluded from targeted Union resettlement schemes established in accordance with Article 8:
  - (a) persons for whom there are reasonable grounds for considering that:
    - (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;
  - (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, including where a second Member State has required the Member State examining the resettlement file to consult 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 grounds;
  - (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;
  - (e) persons who have already been resettled 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
  - (f) persons whom Member States have during the last five years prior to resettlement refused to resettle in accordance with this paragraph.

Point (a) of this paragraph applies to persons who incite or otherwise participate in the commission of the crimes or acts mentioned therein.

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 applies *prima facie*.

*Article 7*  
***Annual Union resettlement plan***

1. On the basis of a proposal from the Commission, the Council shall adopt an annual Union resettlement plan in the year preceding that in which it is to be implemented.

2. The annual Union resettlement plan shall include:
  - (a) the maximum total number of persons to be resettled;
  - (b) details about the participation of the Member States in the annual Union resettlement plan and their contributions to the total number of persons to be resettled;
  - (c) overall geographical priorities.

#### *Article 8*

#### ***Targeted Union resettlement schemes***

1. The Commission shall adopt implementing acts 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).
2. A targeted Union resettlement scheme shall include at least:
  - (a) a detailed justification for the targeted Union resettlement scheme;
  - (b) the precise 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) and details about the participation of the Member States in the targeted Union resettlement scheme;
  - (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, supported by the [European Union Agency for Asylum] in accordance with Article 12(3), and with third countries, and UNHCR or other partners;
  - (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;
  - (f) whether the ordinary procedure set out in Article 10 or the expedited procedure set out in Article 11 shall be applied specifying where necessary how the identification and assessment of third-country nationals or stateless persons shall be carried out and the timeframe for taking decisions on resettlement;
  - (g) the date on which the targeted Union resettlement scheme shall take effect and its duration.

#### *Article 9*

#### ***Consent***

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.

*Article 10*  
**Ordinary procedure**

1. When implementing a targeted Union resettlement scheme, Member States 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 Union resettlement scheme.

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

- (a) family links with third-country nationals or stateless persons or Union citizens legally residing in a Member State;
  - (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 subparagraph;
  - (c) particular protection needs or vulnerabilities.
2. After identifying third-country nationals or stateless persons, Member States shall register the following information of those for whom they intend to conduct the resettlement procedure:
    - (a) the name, date of birth, gender, nationality and other personal details
    - (b) the fingerprints of all fingers and a facial image of every third-country national or stateless person of at least six years of age;
    - (c) the type and number of any identity or travel document of the third-country national; 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.

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.

4. Member States shall take a decision on the resettlement of third-country nationals or stateless persons on the basis of the assessment referred to in paragraph 3 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.
5. Member States shall store the data referred to in paragraphs 2 to 4 for five years from the date of resettlement.

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

6. Where a negative decision is taken, no resettlement of the person concerned shall occur.
7. Where a positive decision is taken, the Member State shall:
  - (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. 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;
  - (b) offer to make travel arrangements, including fit-to-travel medical checks, and provide transfer to their territory free of charge, 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;
  - (c) offer a pre-departure orientation programme 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-up.
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.

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.

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, in order to adapt the resettlement procedure to the circumstances in the third country from which resettlement takes place where necessary.

*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;
- (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 12*  
***Operational cooperation***

1. To facilitate the implementation of the targeted Union resettlement schemes, Member States shall appoint national contact points and may decide to appoint liaison officers in third countries.
2. [The European Union Agency for Asylum] may support Member States, including by coordinating technical cooperation between them, assisting them in the implementation of targeted Union resettlement schemes and facilitating the sharing of infrastructure in accordance with [Regulation (EU) No XXX/XXX (EU Asylum Agency Regulation)<sup>39</sup>].
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 partners in accordance with local coordination and practical cooperation arrangements for targeted Union resettlement schemes established in accordance with point (d) of Article 8(2).

*Article 13*  
***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,] UNHCR, and IOM may be

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<sup>39</sup> OJ L [...], [...], p. [...].

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.

#### *Article 14*

#### ***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 indeterminate period of time from the date of entry into force of this Regulation.
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 2016<sup>40</sup>.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
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 two months at the initiative of the European Parliament or of the Council.

#### *Article 15*

#### ***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.

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<sup>40</sup> OJ L 123, 12.5.2016, p. 1.

*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.

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

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';
  - (b) the following points (aa) and (ab) are inserted:

'(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

  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.
  2. The amount referred to in paragraph 1 shall be allocated to the Member States 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 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.
  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 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] 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 basis as laid down in Article 22(3) of [Regulation (EU) No XXX/XXX (Dublin Regulation)].
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 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*