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COUNCIL DECISION (EU) 2015/1601

of 22 September 2015

establishing provisional measures in the area of international protection for the benefit of Italy and Greece

(OJ L 248, 24.9.2015, p. 80)

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COUNCIL DECISION (EU) 2015/1601

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establishing provisional measures in the area of international protection for the benefit of Italy and Greece

Article 1

Subject matter

1. This Decision establishes provisional measures in the area of international protection for the benefit of Italy and of Greece, in view of supporting them in better coping with an emergency situation characterised by a sudden inflow of nationals of third countries in those Member States.

2. The Commission shall keep under constant review the situation regarding massive inflows of third country nationals into Member States.

The Commission will submit, as appropriate, proposals to amend this Decision in order to take into account the evolution of the situation on the ground and its impact upon the relocation mechanism, as well as the evolving pressure on Member States, in particular frontline Member States.

Article 2

Definitions

For the purposes of this Decision, the following definitions apply:

- (a) ‘application for international protection’ means an application for international protection as defined in point (h) of Article 2 of Directive 2011/95/EU of the European Parliament and of the Council ⁽¹⁾;
- (b) ‘applicant’ means a third-country national or a stateless person who has made an application for international protection in respect of which a final decision has not yet been taken;
- (c) ‘international protection’ means refugee status and subsidiary protection status as defined in points (e) and (g), respectively, of Article 2 of Directive 2011/95/EU;
- (d) ‘family members’ means family members as defined in point (g) of Article 2 of Regulation (EU) No 604/2013;
- (e) ‘relocation’ means the transfer of an applicant from the territory of the Member State which the criteria laid down in Chapter III of Regulation (EU) No 604/2013 indicate as responsible for examining his or her application for international protection to the territory of the Member State of relocation;

⁽¹⁾ Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (OJ L 337, 20.12.2011, p. 9).

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- (f) ‘Member State of relocation’ means the Member State which becomes responsible for examining the application for international protection pursuant to Regulation (EU) No 604/2013 of an applicant following his or her relocation in the territory of that Member State.

*Article 3***Scope**

1. Relocation pursuant to this Decision shall take place only in respect of an applicant who has lodged his or her application for international protection in Italy or in Greece and for whom those States would have otherwise been responsible pursuant to the criteria for determining the Member State responsible set out in Chapter III of Regulation (EU) No 604/2013.

2. Relocation pursuant to this Decision shall be applied only in respect of an applicant belonging to a nationality for which the proportion of decisions granting international protection among decisions taken at first instance on applications for international protection as referred to in Chapter III of Directive 2013/32/EU of the European Parliament and of the Council⁽¹⁾ is, according to the latest available updated quarterly Union-wide average Eurostat data, 75 % or higher. In the case of stateless persons, the country of former habitual residence shall be taken into account. Quarterly updates shall be taken into account only in respect of applicants who have not already been identified as applicants who could be relocated in accordance with Article 5(3) of this Decision.

*Article 4***Relocation of 120 000 applicants to Member States**

1. 120 000 applicants shall be relocated to the other Member States as follows:

- (a) 15 600 applicants shall be relocated from Italy to the territory of the other Member States in accordance with the table set out in Annex I;
- (b) 50 400 applicants shall be relocated from Greece to the territory of the other Member States in accordance with the table set out in Annex II;
- (c) 54 000 applicants shall be relocated to the territory of the other Member States, proportionally to the figures laid down in Annexes I and II, either in accordance with paragraph 2 of this Article or through an amendment of this Decision, as referred to in Article 1(2) and in paragraph 3 of this Article.

2. As of 26 September 2016, 54 000 applicants, referred to in point (c) of paragraph 1, shall be relocated from Italy and Greece, in proportion resulting from points (a) and (b) of paragraph 1, to the territory of other Member States and proportionally to the figures laid down in Annexes I and II. The Commission shall submit a proposal to the Council on the figures to be allocated accordingly per Member State.

⁽¹⁾ Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (OJ L 180, 29.6.2013, p. 60).

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3. If by 26 September 2016, the Commission considers that an adaptation of the relocation mechanism is justified by the evolution of the situation on the ground or that a Member State is confronted with an emergency situation characterised by a sudden inflow of nationals of third countries due to a sharp shift of migration flows and taking into account the views of the likely beneficiary Member State, it may submit, as appropriate, proposals to the Council, as referred to in Article 1(2).

Likewise, a Member State may, giving duly justified reasons, notify the Council and the Commission that it is confronted with a similar emergency situation. The Commission shall assess the reasons given and submit, as appropriate, proposals to the Council, as referred to in Article 1(2).

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

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

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

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4. In case where, following a notification made pursuant to Article 4 of Protocol No 21 by a Member State covered by that Protocol, the Commission confirms in accordance with Article 331(1) TFEU the participation of that Member State in this Decision, the Council shall, on a proposal from the Commission, fix the number of applicants to be relocated to the Member State concerned. In the same implementing decision, the Council shall also accordingly adapt the allocations of other Member States by reducing them in proportion.

5. A Member State may, in exceptional circumstances, by 26 December 2015, notify the Council and the Commission that it is temporarily unable to take part in the relocation process of up to 30 % of applicants allocated to it in accordance with paragraph 1, giving duly justified reasons compatible with the fundamental values of the Union enshrined in Article 2 of the Treaty on European Union.

The Commission shall assess the reasons given and submit proposals to the Council regarding a temporary suspension of the relocation of up to 30 % of applicants allocated to the Member State concerned in accordance with paragraph 1. Where justified, the Commission may propose to extend the time limit for relocating the applicants in the remaining allocation by up to 12 months beyond the date referred to in Article 13(2).

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6. The Council shall, within 1 month, decide on the proposals referred to in paragraph 5.

7. For the purpose of application of paragraphs 2, 4 and 6 of this Article, and of Article 11(2), the Council shall, on a proposal from the Commission, adopt an implementing decision.

*Article 5***Relocation procedure**

1. For the purpose of the administrative cooperation required to implement this Decision, each Member State shall appoint a national contact point, whose address it shall communicate to the other Member States and to EASO. Member States shall, in liaison with EASO and other relevant agencies, take all the appropriate measures to establish direct cooperation and an exchange of information between the competent authorities, including about the grounds referred to in paragraph 7.

2. Member States shall, at regular intervals, and at least every 3 months, indicate the number of applicants who can be relocated swiftly to their territory and any other relevant information.

3. Based on this information, Italy and Greece shall, with the assistance of EASO and, where applicable, of Member States' liaison officers referred to in paragraph 8, identify the individual applicants who could be relocated to the other Member States and, as soon as possible, submit all relevant information to the contact points of those Member States. Priority shall be given for that purpose to vulnerable applicants within the meaning of Articles 21 and 22 of Directive 2013/33/EU.

4. Following approval of the Member State of relocation, Italy and Greece shall, as soon as possible, take a decision to relocate each of the identified applicants to a specific Member State of relocation, in consultation with EASO, and shall notify the applicant in accordance with Article 6(4). The Member State of relocation may decide not to approve the relocation of an applicant only if there are reasonable grounds as referred to in paragraph 7 of this Article.

5. Applicants whose fingerprints are required to be taken pursuant to the obligations set out in Article 9 of Regulation (EU) No 603/2013 may be proposed for relocation only if their fingerprints have been taken and transmitted to the Central System of Eurodac, pursuant to that Regulation.

6. The transfer of the applicant to the territory of the Member State of relocation shall take place as soon as possible following the date of the notification to the person concerned of the transfer decision referred to in Article 6(4) of this Decision. Italy and Greece shall transmit to the Member State of relocation the date and time of the transfer as well as any other relevant information.

7. Member States retain the right to refuse to relocate an applicant only where there are reasonable grounds for regarding him or her as a danger to their national security or public order or where there are serious reasons for applying the exclusion provisions set out in Articles 12 and 17 of Directive 2011/95/EU.

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8. For the implementation of all aspects of the relocation procedure described in this Article, Member States may, after exchanging all relevant information, decide to appoint liaison officers to Italy and to Greece.

9. In line with the Union *acquis*, Member States shall fully implement their obligations. Accordingly, identification, registration and fingerprinting for the relocation procedure shall be guaranteed by Italy and by Greece. To ensure that the process remains efficient and manageable, reception facilities and measures shall be duly organised so as to temporarily accommodate people, in line with the Union *acquis*, until a decision is quickly taken on their situation. Applicants that elude the relocation procedure shall be excluded from relocation.

10. The relocation procedure provided for in this Article shall be completed as swiftly as possible and not later than 2 months from the time of the indication given by the Member State of relocation as referred to in paragraph 2, unless the approval by the Member State of relocation referred to in paragraph 4 takes place less than 2 weeks before the expiry of that 2-month period. In such case, the time limit for completing the relocation procedure may be extended for a period not exceeding a further 2 weeks. In addition, the time limit may also be extended, for a further 4-week period, as appropriate, where Italy or Greece show objective practical obstacles that prevent the transfer from taking place.

Where the relocation procedure is not completed within these time limits and unless Italy and Greece agree with the Member State of relocation to a reasonable extension of the time limit, Italy and Greece shall remain responsible for examining the application for international protection pursuant to Regulation (EU) No 604/2013.

11. Following the relocation of the applicant, the Member State of relocation shall take and transmit to the Central System of Eurodac the fingerprints of the applicant in accordance with Article 9 of Regulation (EU) No 603/2013 and update the data sets in accordance with Article 10 of, and, where applicable, Article 18 of that Regulation.

Article 6

Rights and obligations of applicants for international protection covered by this Decision

1. The best interests of the child shall be a primary consideration for Member States when implementing this Decision.

2. Member States shall ensure that family members who fall within the scope of this Decision are relocated to the territory of the same Member State.

3. Prior to the decision to relocate an applicant, Italy and Greece shall inform the applicant in a language which the applicant understands or is reasonably supposed to understand of the relocation procedure as set out in this Decision.

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4. When the decision to relocate an applicant has been taken and before the actual relocation, Italy and Greece shall notify the person concerned of the decision to relocate him in writing. That decision shall specify the Member State of relocation.

5. An applicant or beneficiary of international protection who enters the territory of a Member State other than the Member State of relocation without fulfilling the conditions for stay in that other Member State shall be required to return immediately. The Member State of relocation shall take back the person without delay.

*Article 7***Operational support to Italy and to Greece**

1. In order to support Italy and Greece better to cope with the exceptional pressure on their asylum and migration systems caused by the current increased migratory pressure at their external borders, Member States shall increase their operational support in cooperation with Italy and Greece in the area of international protection through relevant activities coordinated by EASO, Frontex and other relevant Agencies, in particular by providing, as appropriate, national experts for the following support activities:

- (a) the screening of the third-country nationals arriving in Italy and Greece, including their clear identification, fingerprinting and registration, and, where applicable, the registration of their application for international protection and, upon request by Italy or Greece, their initial processing;
- (b) the provision to applicants or potential applicants that could be subject to relocation pursuant to this Decision of information and specific assistance that they may need;
- (c) the preparation and organisation of return operations for third-country nationals who either did not apply for international protection or whose right to remain on the territory has ceased.

2. In addition to the support provided under paragraph 1, and for the purpose of facilitating the implementation of all steps of the relocation procedure, specific support shall be provided as appropriate to Italy and to Greece through relevant activities coordinated by EASO, Frontex and other relevant Agencies.

*Article 8***Complementary measures to be taken by Italy and Greece**

1. Italy and Greece, shall, bearing in mind the obligations set out in Article 8(1) of Decision (EU) 2015/1523, and by 26 October 2015, notify to the Council and the Commission an updated roadmap taking into account the need to ensure appropriate implementation of this Decision.

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2. Should this Decision be amended for the benefit of another Member State in accordance with Article 1(2) and Article 4(3), that Member State shall, on the date of entry into force of the relevant Council amending decision, present a roadmap to the Council and the Commission which shall include adequate measures in the area of asylum, first reception and return, enhancing the capacity, quality and efficiency of its systems in these areas as well as measures to ensure appropriate implementation of this Decision. That Member State shall fully implement that roadmap.

3. If Italy or Greece does not comply with the obligations referred to in paragraph 1, the Commission may decide, having given the Member State concerned the opportunity to present its views, to suspend the application of this Decision with regard to that Member State for a period of up to 3 months. The Commission may decide once to extend such suspension for a further period of up to 3 months. Such suspension shall not affect the transfers of applicants that are pending following approval of the Member State of relocation pursuant to Article 5(4).

*Article 9***Further emergency situations**

In the event of an emergency situation characterised by a sudden inflow of nationals of third countries in a Member State, the Council, on a proposal from the Commission and after consulting the European Parliament, may adopt provisional measures for the benefit of the Member State concerned, pursuant to Article 78(3) TFEU. Such measures may include, where appropriate, a suspension of the participation of that Member State in the relocation as provided for in this Decision, as well as possible compensatory measures for Italy and for Greece.

*Article 10***Financial support**

1. For each person relocated pursuant to this Decision:
 - (a) the Member State of relocation shall receive a lump sum of EUR 6 000;
 - (b) Italy or Greece shall receive a lump sum of at least EUR 500.
2. This financial support shall be implemented by applying the procedures laid down in Article 18 of Regulation (EU) No 516/2014. By way of exception from the pre-financing arrangements set out in that Regulation, Member States shall, in 2016, be paid a pre-financing amount of 50 % of their total allocation pursuant to this Decision.

*Article 11***Cooperation with associated States**

1. With the assistance of the Commission, bilateral arrangements may be made between, Italy and, respectively Iceland, Liechtenstein,

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Norway and Switzerland, and between Greece and, respectively, Iceland, Liechtenstein, Norway and Switzerland, on the relocation of applicants from the territory of Italy and of Greece to the territory of those latter States. The core elements of this Decision, in particular those relating to the relocation procedure and the rights and obligations of applicants, shall be duly taken into account in those arrangements.

2. In case such bilateral arrangements are made, Italy or Greece shall notify to the Council and the Commission the number of applicants who are to be relocated to the associated States. The Council shall accordingly adapt, on a proposal from the Commission, the allocations of Member States by reducing them in proportion.

*Article 12***Reporting**

On the basis of the information provided by the Member States and by the relevant agencies, the Commission shall report to the Council every 6 months on the implementation of this Decision.

On the basis of the information provided by Italy and by Greece, the Commission shall also report to the Council every 6 months on the implementation of the roadmaps referred to in Article 8.

*Article 13***Entry into force**

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

2. It shall apply until 26 September 2017.

3. It shall apply to persons arriving on the territory of Italy and Greece from 25 September 2015 until 26 September 2017, as well as to applicants having arrived on the territory of those Member States from 24 March 2015 onwards.



ANNEX I

Allocations from Italy

	Allocation per Member State (15 600 applicants relocated)
Austria	462
Belgium	579
Bulgaria	201
Croatia	134
Cyprus	35
Czech Republic	376
Estonia	47
Finland	304
France	3 064
Germany	4 027
Hungary	306
Latvia	66
Lithuania	98
Luxembourg	56
Malta	17
Netherlands	922
Poland	1 201
Portugal	388
Romania	585
Slovakia	190
Slovenia	80
Spain	1 896
Sweden	567



ANNEX II

Allocations from Greece

	Allocation per Member State (50 400 applicants relocated)
Austria	1 491
Belgium	1 869
Bulgaria	651
Croatia	434
Cyprus	112
Czech Republic	1 215
Estonia	152
Finland	982
France	9 898
Germany	13 009
Hungary	988
Latvia	215
Lithuania	318
Luxembourg	181
Malta	54
Netherlands	2 978
Poland	3 881
Portugal	1 254
Romania	1 890
Slovakia	612
Slovenia	257
Spain	6 127
Sweden	1 830